



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 111<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 155

WASHINGTON, THURSDAY, DECEMBER 3, 2009

No. 178

## House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. PASTOR of Arizona).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

December 3, 2009.

I hereby appoint the Honorable ED PASTOR to act as Speaker pro tempore on this day.

NANCY PELOSI,

*Speaker of the House of Representatives.*

### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

In You, Lord, is found the fullness of life and love. No wonder then, the human heart always longs for more. We seek You, Lord, sometimes without knowing it.

Lord, our God, people within our borders, within this Chamber, pray for this Nation. Others around the world pray for the United States of America as well. So many see our potential for good, for doing the right thing in the search for justice and peace. They long for our success.

Answer the longing of Your people, Lord. Draw closer to us. Help us realize the promise You have placed within us. Not by our words alone, but by our actions, reveal us as Your people of promise who give You glory both now and forever.

Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ARCURI. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ARCURI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Jersey (Mr. SIREs) come forward and lead the House in the Pledge of Allegiance.

Mr. SIREs led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 10 requests for 1-minute speeches on each side of the aisle.

### REGULATING WALL STREET

(Mr. SIREs asked and was given permission to address the House for 1 minute.)

Mr. SIREs. Mr. Speaker, a year ago, as a result of 8 years of mismanagement of Wall Street, our financial system was on the brink of collapse. Over

the past year, this Congress and President Obama have made the tough choices and taken the necessary steps to bring back our economy from the verge of disaster. In order to continue to protect consumers, create jobs, and grow our economy, our next step must be to enact comprehensive financial regulatory reform; for history has shown, we cannot rely on Wall Street to regulate itself.

In the coming weeks, we must work to pass our commonsense rules to guarantee that taxpayers are never again on the hook for Wall Street's risky decisions, the financial savings of our families and businesses are protected from unnecessary risks by lenders and speculators, consumers must be protected from predatory lending practices, and transparency and accountability are injected into our financial system.

I look forward to ensuring that our hardworking families and small businesses will no longer be hurt nor our economy jeopardized due to an unregulated financial system.

### JOBS SUMMIT SHOULD ADDRESS "STOLEN" JOBS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, today the President is hosting a jobs summit. But he is ignoring the 8 million jobs held by those in the country illegally that should go to American workers. With a 10 percent unemployment rate, the President should put the interests of Americans first.

While the administration ignores the 8 million stolen jobs, Republicans hold the lead in voter trust on immigration with a 12-point lead over the Democrats. That's nearly double the GOP's lead a month ago.

We should hold the administration accountable for its failure to enforce

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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the Nation's immigration laws, which allows 8 million illegal immigrants to remain in the workforce. Those jobs rightfully belong to citizens and to legal immigrants.

Enforcing the law is not only the right thing to do, it is what the American people want. Any jobs summit that doesn't address the jobs occupied by illegal immigrants ignores American workers.

#### PROMOTING JOBS AND ECONOMIC DEVELOPMENT

(Mr. MICHAUD asked and was given permission to address the House for 1 minute.)

Mr. MICHAUD. Almost every Mainer has been affected by this recession or knows someone who's been struggling. Moving forward into the new year, our Nation's record unemployment rate threatens our economic recovery.

While I do not support a second stimulus bill, we must refocus our efforts on initiatives that create jobs and promote long-lasting economic development. We must continue to help those who are unemployed in this country support their families until they are able to find a job. And we must pass serious reforms and make efforts to reduce our unsustainable debt, because we cannot grow our economy on the backs of future generations.

Any initiatives considered by Congress must be targeted and fiscally responsible to build a foundation for long-term economic growth.

#### HONDURAN FREE ELECTIONS

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, the people of Honduras just completed their successful national elections.

In June, Honduran President Manuel Zelaya tried to change his elected office into a dictatorship. He's the guy that's buddies with Venezuelan dictator Hugo Chavez. Zelaya organized a mob and tried to nullify his term limits to hold on to power. His actions were illegal under Honduran law. Zelaya was arrested by the army under order of the Honduran Supreme Court. And even though the United States inappropriately tried to interfere, he was removed from office by their Congress for violating their constitution.

On Sunday, the people of Honduras elected Porfirio "Pepe" Lobo, a conservative businessman, as their new President. Congratulations to the people of Honduras for sticking to the rule of law despite great odds. They held free and fair elections. This national triumph for the people of Honduras is a victory for all those anywhere in the world who live in freedom and seek freedom over tyranny.

And that's just the way it is.

#### IN MEMORY OF ARMY SPECIALIST JESUS FLORES, JR., OF LA MIRADA, CALIFORNIA

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today to honor a fallen soldier from my district.

Jesus Flores, Jr., 28, from La Mirada, California, was killed in action on October 15 of this year in Afghanistan. He leaves behind his mother, father, four sisters, and one brother.

Jesus enlisted in the Navy straight from high school and served for 4 years. In 2003, he enlisted in the Army. He became a combat specialist and was deployed to Iraq from February to May of 2009. He was on his first tour in Afghanistan when he was killed in action.

One of his sisters spoke of Jesus in this way: A loving son. A generous brother. A soldier who loved military life. This was apparent in the many medals adorning his uniform.

The people of this body and people throughout this country could not exist without the dedication and sacrifices from the soldiers who serve. Soldiers like Jesus. Soldiers who, above all else, want to honor this country, preserve our freedoms, and protect our families.

There is nothing that I can say or do to take away the pain his family feels at the loss of Jesus. But I hope they are comforted by knowing the memory of Specialist Jesus Flores will remain, and we will continue to honor his service every day.

#### WHITE HOUSE JOBS SUMMIT

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Today, in the midst of a harsh recession, the President will convene a jobs summit at the White House. Coming nearly 1 year after the passage of the so-called "stimulus" bill that Speaker PELOSI said was about jobs, jobs, jobs, unemployment remains at record levels in this country.

Today's White House jobs summit is a tacit admission that the economic policies of this administration and this Congress have failed. But, Mr. Speaker, we can bring America back by applying fiscal discipline here in Washington, D.C., and giving the American people fast-acting tax relief for working families, small businesses, and family farms.

Jack Kemp said years ago, There is a wisdom and intelligence in ordinary men and women far superior to the experts. Well, let's heed that wisdom and intelligence of ordinary Americans. Let's reject the politics of borrowing and spending and bailouts. Let's embrace what has always worked. And let's bring America back with fiscal discipline and tax relief today.

#### TAKING CARE OF THINGS AT HOME

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. America is in the fight of its life. And the fight is not in Afghanistan; it's here. We're deeply in debt. Our GDP is down; our manufacturing is down; our savings are down; the value of the dollar is down. Our trade deficit is up; business failures are up; bankruptcies are up; foreign borrowing is up.

The war is a threat to our national security. We'll spend over \$100 billion next year to bomb a nation of poor people while we reenergize the Taliban, destabilize Pakistan, deplete our Army, and put more soldiers' lives on the line.

Meanwhile, back here in the USA, 15 million people out of work; people losing their jobs, their health care, their savings, their investments, their retirement security; \$13 trillion in bailouts for Wall Street, trillions for war.

When are we going to start taking care of things here at home?

#### VICTORY IN AFGHANISTAN

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, success in Afghanistan should be defined in the tradition of Ronald Reagan: we win and the terrorists lose.

While his decision was long overdue, I was pleased the President announced sending 30,000 reinforcements to Afghanistan. The President has listened to our commanders on the ground for a counterinsurgency to secure Afghanistan, which protects American families. This decision will defeat al Qaeda terrorists and the Taliban in Afghanistan. Along the border with Pakistan, U.S. troops are denying al Qaeda and Taliban safe havens in which to operate.

For the sake of our mission, American families at home, and our brave men and women in uniform, I hope the President will rally congressional leaders behind his strategy and our troops' mission for victory in Afghanistan. Supporting the President's decision shouldn't come down to party lines. Terrorists do not differentiate between Republicans and Democrats as targets.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

#### UPS WORK-A-DAY AND SMALL BUSINESS

(Mr. HALL of New York asked and was given permission to address the House for 1 minute.)

Mr. HALL of New York. Earlier this week, I spent a day working alongside Al McDonnell, a delivery driver for UPS. Together, we delivered packages to small businesses in downtown

Washingtonville, New York. It was a great opportunity to speak with small business owners about the current economic climate that has affected them.

Their message was consistent and needs to be heard. Small businesses are struggling. It is critical that we give small businesses every opportunity to succeed, which is why I joined with Representative CHRISTOPHER CARNEY to urge the extension of an immediate tax break for newly purchased business equipment. Extending this tax break will provide immediate relief for businesses that purchase depreciable property such as equipment, vehicles, furniture, machinery, buildings, and other items.

Our small businesses need every break they can get these days. They are the engine that drives our economy and creates jobs. This tax break helps small businesses and stimulates the local economy. We cannot afford to let it expire.

□ 1015

#### PUT CONGRESS BACK TO WORK

(Mr. GINGREY of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY of Georgia. Mr. Speaker, I ask that you take a hard look at the economic challenges facing our country. Across the United States, unemployment is at a 26-year high, 10.2 percent, and more than 2.8 million jobs have been lost since the \$1 trillion stimulus was signed into law last February without a single Republican vote in this House.

In my home State of Georgia, eight out of the nine counties in my district have unemployment rates of 10 percent, and two counties are over 13 percent. Put simply, Mr. Speaker, my constituency needs jobs, and they need them now.

Yet the Democratic plans on the economy, on health care, and on energy do the exact opposite. These plans raise taxes, and they sacrifice even more jobs. This is not the way to stimulate our economy and not the way to help my constituents.

We need real solutions that will require tough choices in Washington. They involve tax relief for working Americans, and Republicans stand ready to work with you on that.

#### HELP THE DAIRY FARMERS

(Mr. ARCURI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARCURI. Mr. Speaker, I want to take this opportunity to alert my colleagues to a piece of legislation that I have introduced to assist our dairy farmers across the country in their critical time of need. Dairy farmers across my upstate New York district have come to me and asked for help.

They have always been there to provide food for us as consumers, and now it is time for us to help them continue the long tradition of family-owned and operated dairy farms that are passed from generation to generation.

My bill is inspired by a piece of legislation introduced in the New York State Senate by Senator Darrel Aubertine and would reduce hauling costs passed on to dairy farmers by processors and milk haulers. The bill eliminates hauling costs for milk producers and clarifies that the ownership of the milk is transferred from the milk producers to the milk plant when it leaves the farm and is mixed with the other farmers' milk.

The bill also makes it unlawful for processors to charge a producer any cost incurred in the process of picking up the milk and delivering it to a milk plant receiving station or transfer station.

The time to act for our dairy farmers is now.

#### NEW AFGHANISTAN POLICY

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, as a 29-year Air Force veteran and prisoner of war for nearly 7 years, I know what happens when you try to run a war from the White House: you lose. Winning the war in Afghanistan, defeating al Qaeda, is vital to the safety of our Nation. To quote the President, "If left unchecked, the Taliban insurgency will mean an even larger safe haven from which al Qaeda would plot to kill more Americans."

So let's listen to the military leadership in Afghanistan. Setting a timeline to end military engagement is not the way to win a war. Instead, it empowers our enemies and sends a wrong message to our troops, our allies, and the American people. We need to listen to the experts on the ground instead of the politicians who are thousands of miles away from the front. We need to stop talking about exit strategies and troop withdrawal and focus on giving our troops the resources they want, need, and deserve.

Let's eliminate the rules and fight to win.

#### ETHICS REFORM

(Mr. QUIGLEY asked and was given permission to address the House for 1 minute.)

Mr. QUIGLEY. Mr. Speaker, Louis Brandeis said sunlight is the best disinfectant. So with ethics once more in the headlines, I think it's worth asking how far we've come in bringing light to the people's House.

This is not a partisan issue. Corruption votes both ways. It is, rather, an issue of trust. These teams, more than ever, demand effective government, yet it is very hard to govern effectively

without the public's trust. We need to complete the active ethics investigations currently being considered in this House, and we need to eliminate the conditions which contributed to these violations in the first place.

I've introduced two measures to eliminate pay-to-play activities at both the State and Federal level. H.R. 614 would prohibit earmarks to for-profit entities, and H.R. 3427 would eliminate Federal provisions which prevent States like Illinois from cleaning up their act on pay-to-play corruption.

I urge my colleagues to join me in supporting both of these measures.

#### AFGHANISTAN PLAN

(Mr. OLSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLSON. Mr. Speaker, I commend the President for finally making the right decision to send additional combat troops to Afghanistan. However, I have deep concerns with the President's insistence on a hard July 2011 deadline for withdrawal.

The President seeks to send our troops into battle while at the same time notifying our enemies of when they will be coming home. And to confuse matters more, the President also spoke of making decisions based on conditions on the ground.

So which is it, a withdrawal on a date certain, or based on the conditions on the ground?

The President offers many what-ifs but very few answers. Our Nation's troops have fought admirably in dangerous conditions to turn the tide against those who attacked our Nation on September 11. The President cannot have it both ways, and I urge him to focus this new strategy on victory and not withdrawal.

#### CONGRATULATING THE PARSONS CHILD AND FAMILY CENTER

(Mr. TONKO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TONKO. Mr. Speaker, I would like to take this opportunity to congratulate Parsons Child and Family Center for immaculate community services that they provide for the needs of children and families in the capital region of upstate New York, which I represent.

Parsons was founded some 180 years ago and has become one of the largest human service agencies in upstate New York. Its contributions to the 9,000 children and families it serves include counseling services, parenting education, child abuse prevention and treatment, and mental services.

While there is no typical child served by Parsons, most have endured a significant traumatic event in their lives. The highly trained staff at Parsons

using the latest techniques work to improve the lives of all they serve. The role and importance of the family are stressed, with the ultimate goal of preserving the family unit whenever and wherever possible.

Today I want to commend Parsons' service and commitment to our region's families and children. I encourage us all to look towards them as a model of positive support and outcomes in a system that has turned around the lives of so many. With one in every five American children living in poverty, we commend the role of the professionals at Parsons for the work it does.

#### RECOGNIZING THE MURRAY GREY FOUNDATION AND WREATHS ACROSS AMERICA

(Mr. WITTMAN asked and was given permission to address the House for 1 minute.)

Mr. WITTMAN. Mr. Speaker, I rise today to recognize the Murray Grey Foundation and Wreaths Across America. The Murray Grey Foundation and its Military Families Support Fund provides America's military families with emergency financial support and resources in their time of need.

The Murray Grey Foundation recognizes that the sacrifices that our military servicemembers and their families continue to make are not only personal and professional but also financial. The foundation assists by providing financial assistance, education, and support to help military families avoid foreclosure or eviction from their homes and preserve their home ownership. They also provide emergency financial support, food, clothing, utility payments, transportation, rent and other critical resources.

This year, the foundation partnered with Wreaths Across America, which places wreaths on the graves of veterans, to establish the Patriots Wreaths Program.

I applaud the outstanding contributions of organizations like the Murray Grey Foundation and their work to honor the contributions of our Nation's veterans, servicemembers and their families.

#### ARC OF BROWARD COUNTY

(Mr. KLEIN of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN of Florida. Mr. Speaker, last week I had the chance to visit a remarkable organization in my congressional district, the ARC of Broward County. ARC Broward is a private, not-for-profit organization that supports children and adults with autism, Down's syndrome and other developmental disabilities.

This innovative group provides an invaluable service for their clients in our community. Currently serving over 1,600 people, ARC Broward also provides good jobs for more than 450 local

health care, educational, and other professionals.

ARC clients find independence and dignity both at home and at work. ARC is currently home to 80 residents, many of whom have single family homes that ARC owns and operates. In addition, they provide job training in fields like culinary arts and own and operate an on-campus electronic recycling business.

I would like to thank the residents and staff at the ARC for welcoming me so warmly last week and congratulate all of them on their extraordinary contributions to our community.

#### JOBS AND ECONOMIC GROWTH

(Mr. LANGEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, I'd like to thank President Obama for convening a forum on jobs and economic growth in the White House today.

As too many of our constituents enter this holiday season perhaps having lost their jobs or facing lower wages, higher health care costs, or out-of-control mortgages, and many of whom have lost their homes, we absolutely must focus on rebuilding our economy and pursuing all avenues to create jobs. Rhode Island felt the painful effects of the current economic downturn, and that is why it is so important to me that we have a seat at this forum.

I am pleased to say that President DiPasquale of the Community College of Rhode Island will be there to share their perspective on workforce development, job training, retraining workers, and educational opportunity for the 21st century.

Economic development continues to be my top priority, and I look forward to working with my friends in Congress and with President Obama to increase job opportunities across our country.

#### PROVIDING FOR CONSIDERATION OF H.R. 4154, PERMANENT ESTATE TAX RELIEF FOR FAMILIES, FARMERS, AND SMALL BUSINESSES ACT OF 2009

Mr. POLIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 941 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

##### H. RES. 941

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4154) to amend the Internal Revenue Code of 1986 to repeal the new carryover basis rules in order to prevent tax increases and the imposition of compliance burdens on many more estates than would benefit from repeal, to retain the estate tax with a \$3,500,000 exemption, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The bill shall be considered as read. All

points of order against provisions in the bill are waived. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommit.

SEC. 2. In the engrossment of H.R. 4154, the Clerk shall—

(a) add the text of H.R. 2920, as passed by the House, as new matter at the end of H.R. 4154;

(b) conform the title of H.R. 4154 to reflect the addition to the engrossment of the text of H.R. 2920;

(c) assign appropriate designations to provisions within the engrossment; and

(d) conform provisions for short titles within the engrossment.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 1 hour.

Mr. POLIS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

##### GENERAL LEAVE

Mr. POLIS. I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. I yield myself such time as I may consume.

Mr. Speaker, this rule provides for consideration of H.R. 4154, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009. The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI and against the bill itself. The rule provides that the previous question shall be considered as ordered without intervening motions except 1 hour of debate and one motion to recommit with or without instructions.

In the engrossment of H.R. 4154, the Clerk is directed to add at the end the text of H.R. 2920, the Statutory Pay-As-You-Go Act of 2009, as passed by the House.

Mr. Speaker, this past weekend in honor of the Thanksgiving holidays, NBC's "Meet the Press" hosted the Reverend Rick Warren in a discussion on giving and civic duty. During the dialogue, Rev. Warren stated his belief that it isn't a sin to be rich, but it is a sin to die rich. While I don't agree with Rev. Warren on many issues, I ask my colleagues to now reflect on the meaning of those words. The Reverend was speaking, of course, of the importance of charity and our moral obligation to improve the condition of our fellow man whenever and wherever we can.

Today I speak to you with the same sense of duty—duty to our country that has allowed me personally to achieve personal wealth, and in turn, to help others.

Mr. Speaker, the bill before us under this rule is a significant tax cut. Without this bill, the estate tax will return in the year 2011 at a much lower exemption amount, an exemption of \$1 million instead of an exemption at a rate of \$3.5 million and at a much higher tax rate, a tax rate of 55 percent rather than a tax rate of 45 percent, which we have under this bill.

□ 1030

We all know that the occasion of the death of a loved one is a very difficult time for family and friends. The price of love is unfortunately loss, and that's a price that we all must pay at some point in our lives. While no act of government can ease this emotional pain, today we have the opportunity to at least give families who have achieved great success some surety in their ability to ensure that the next generation will receive the benefit of their works.

An estate tax distorts a free market less than an income tax. Instead of taxing productive capital, it takes taxes from a random heir. On a revenue-neutral basis, I for one would much rather pay taxes after dying than before dying. And however much an income tax may distort the market, an estate tax distorts it less on a revenue-neutral basis.

Mr. Speaker, allow me to be clear. Individuals like myself, who through hard work have been able to start businesses, create jobs, and, as a result, have been rewarded with the financial resources to provide a high standard of living for our families, have a duty to our fellow Americans to pay our fair share. And an estate tax, the existence of an estate tax, is critical to prevent a permanent aristocracy from arising in this country.

When I think of the everyday tax burden for my constituents or, for that matter, for my staff and associates as a proportion of their income as a result of sales taxes, property taxes, let alone income taxes, I can think of no credible argument for suggesting that an estate tax is unreasonable. I also take comfort in knowing that, with the passage of this bill, we are locking in that 99 percent of my constituents will never pay the estate tax. According to The Urban-Brookings Tax Policy Center, under this proposal only .25 percent, that's ¼ of 1 percent, of debts would be subject to an estate tax.

We ask those who labor to build the roads to also shoulder the cost. We ask those who educate our Nation's children to also help pay for the schools. Shouldn't we ask those who die with wealth to help give back a little to those around them? I say to my colleagues this is fair, this is right.

When factoring the full costs of being a member of a society, it's very clear that all too often we ask the most of those who have the least. For our country to continue to prosper, we can't just rely on the middle class to support our Nation's public safety and welfare and to cushion the success of families

who are successful in this country. I can personally tell you, as one of those Americans that's in the .25 percent, I would gladly pay an estate tax to give back to the 99.75 percent of families who do the heavy lifting in this country every day and ensure that they never have to pay this tax and that family farms can be passed down to the next generation and small operating family businesses will be subject to no estate tax.

Yes, Mr. Speaker, I agree with Rev. Warren that it's no sin to be rich, but I disagree that it is a sin to die rich. A life's work should rightly be a benefit to one's heirs and one's causes. My belief that a family farm, a family business, or simply accumulated wealth should be passed from one generation to the next is consistent with the fact that those who benefitted the most from the freedom and security that this country offers should pay their fair share for the benefits and the landscape that allowed them to reach the level of success that they did.

What all Americans deserve, rich or poor, is the knowledge that at a time of great personal pain for families, the stress will not be exacerbated by a complex or uncertain tax policy. That's one of the many reasons I ask my colleagues to join me in supporting this rule and the underlying bill.

Throughout our history, transfer taxes have been used to fund critical operations of the Federal Government. The modern estate tax was established by the Revenue Act of 1916 to offset declining import tariff revenues as a result of and to finance the United States' participation in World War I. Since World War I, the estate tax has continued to provide Federal revenues that have financed World War II and the New Deal, and have helped end the Great Depression. The estate tax includes, importantly, an unlimited deduction for charitable giving. In 2006 nearly two-thirds of charitable requests came from estates valued over \$10 million.

What a way for Americans to leave a legacy for the next generation. Universities, hospitals, and arts organizations have come to rely on these contributions from our Nation's most wealthy. One need only tour a college campus to see the direct impact of the philanthropy on our students and its effect on our future displayed prominently on plaques outside many campus buildings like those at the University of Colorado in Boulder, which I represent.

H.R. 4154, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act, does exactly what it says. The bill will make permanent the lowest estate tax rate our Nation has seen in a decade, making the current rate permanent and giving families the ability to plan ahead for an orderly transfer of assets. Business owners will be able to plan ahead to ensure that their employees will still have a job and their company will be able to continue to provide for their

families after they're gone. Farmers will be able to keep their land in their family.

I remind my colleagues that the \$3.5 million exemption means that no family will pay any estate tax unless the estate is valued at at least \$3.5 million. It is substantially higher than it has been in this decade, and without our action today, we put families in a situation of unnecessary financial uncertainty at a time when their head and their hearts can least afford it. Without this bill the estate tax will return in the year 2011 at a much lower exemption amount of \$1 million and a much higher tax rate of 55 percent.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. I would like to thank my friend the gentleman from Colorado (Mr. POLIS) for the time.

Mr. Speaker, I yield myself such time as I may consume.

Eight years ago, Mr. Speaker, the Republican-led Congress passed legislation that provided over \$1.3 trillion in tax relief by, among others, gradually increasing the exemption for the estate tax while decreasing the tax rate itself. As part of that legislation, the estate tax, also known as the death tax, is set to disappear next year. The underlying bill would undo the repeal of the death tax and instead bring back the tax, extend the estate tax rate of 45 percent, and include an unindexed exemption.

I believe these are excessively high rates of taxation, especially when we realize that the tax is imposed at the end of a lifetime of work on which taxes were paid throughout the stages in which income was made. It is wrong, I believe, to tax individuals who have spent their entire lives working to provide their families with some financial security, and so that's why I oppose the underlying legislation.

This double taxation, which is really what we're talking about today, I believe is destructive to family-owned businesses and farms, which are often torn apart or need to be liquidated entirely just to pay those burdensome taxes at the time of death. Americans who work hard and pay taxes all of their lives I don't think should be punished for responsibly saving with yet another tax when they pass away.

When the country has double-digit unemployment, the current majority in Congress is threatening small businesses, the engines of economic growth and job creation in the Nation, with even higher tax burdens. Small businesses are often struggling to survive, to meet payroll and avoid layoffs, and yet this is another example, Mr. Speaker, of the fact that the majority time and time again is proposing legislation that hampers the ability of small businesses to thrive and to hire new workers.

It's unfortunate that the majority feels that they can continuously impact, hit small businesses with tax after tax and expect them to survive

and thrive and retain their workers. That's not the way the economy works.

Even if small business owners do not receive an estate tax bill, they still spend resources on estate tax compliance. According to a recent survey of small and medium-sized manufacturers, those small businesses spend an average of \$94,000 on fees and estate planning costs in preparation for an estate tax bill. Imagine what a small business, Mr. Speaker, could do with that money. They could invest it in their company to grow their business. They could add more workers. Instead, the majority prefers placing more and more burdens. And this is but one example, the legislation being brought forth to the floor today, of the majority's incessant endeavor to place more and more burdens on the engines of our economic growth.

Small businesses are responsible for 60 to 80 percent of all new net jobs that were created in the last decade. If the majority continues with their current policies, if they continue on this track of placing more and more burdens on small business, the unemployment rate is going to continue to rise.

I think what we should be doing is everything possible to lower unemployment, to spur investment and job growth. That's where we should be heading.

So I believe what we should be doing is extending the repeal of the death tax. And many of us in this Congress, especially on this side of the aisle, we feel very strongly on this issue. Short of passing the permanent repeal, which I support, at the very least I think we should enact legislation that sets a reasonable rate, provides an appropriate exemption amount, and indexes that amount for inflation. We already saw with the alternative minimum tax what not indexing is capable of doing when Congress acts in that manner. So, unfortunately, the bill does nothing of what I just said, a reasonable rate and indexing an exemption amount.

Yet we on our side of the aisle will not be able to have a debate on legislation, on a proposal to do just that, to index an exemption amount and set a reasonable rate indefinitely into the future. We won't be able to do that because the majority again is closing down the process, shutting down debate. They promised to do quite the opposite, as you know, Mr. Speaker.

So let's contrast what the current majority is doing today with the estate tax rule that we passed when we were in the majority. That rule allowed our distinguished colleague Mr. POMEROY to offer his substitute amendment. Today we in the minority will be treated much differently.

□ 1045

We will not be given the opportunity that we gave the current majority and Mr. POMEROY. We will not be allowed to debate our substitute proposal. We will not be afforded a vote on our alternative legislation.

The difference in treatment is not an isolated incident but the standard operating procedure for this majority. They continuously close down the process. They shut out Members from both sides of the aisle from being able to introduce and have debated their amendments, and I think it is unfortunate.

I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, let me be clear with what happens if the House does not pass this bill: The estate tax would go away for 1 year in the year 2010, and then it would return at 55 percent and a deduction of only \$1 million, so every estate above \$1 million would be taxed at a rate of 55 percent. Many families would lose their family businesses, their family farms, if we fail to act and pass this bill to preserve the ability of Americans to pass along their assets to the next generation.

It would also create a very bizarre circumstance in the year 2010 where there would be an incentive to die. I had a friend with a good sense of humor who stated that his wealthy family, his father, had joked with him that he planned not to stand near the top of a staircase in the year 2010 if that was the case.

Mr. Speaker, the estate tax is paid by very few Americans. Historically, fewer than 2 percent of Americans have paid the estate tax, and under this bill it will be even less. And only 3.5 percent of those who pay the estate tax pay it on small business assets, and only 5 percent on farms. When looking at specifically family-owned businesses, the number goes down to one-half of 1 percent.

Mr. Speaker, let us talk about the options for wealthy families. The estate tax does two important things. First, it provides revenue to government to provide services in the context in which wealth can grow, provides the landscaping in our country that allows entrepreneurs and businesses to succeed. Programs paid for from this revenue fund our social safety net, our legal structure, our public safety programs, and our regulatory framework that allows businesses to prosper. It is the protection of the law that allows those who have gained wealth to be able to keep it and transfer it to the next generation.

The second and, arguably, also more important function of the estate tax is to provide an incentive for charitable giving. By supporting charities and nonprofit organizations of their choice, the wealthy can simultaneously give back to the community directly and protect the assets that they leave to their heirs.

The estate tax is an important incentive to leverage the work of government with the efforts of nonprofits to create broad opportunities and assistance throughout society. By making the rules of the estate tax stable and permanent, we give families the ability to plan for their future as well as invest in the future of their communities.

We know that planned giving is an important part of the fundraising strategy for the nonprofits that do the good work that government and industry cannot, and there is no denying the link between the estate tax rate and the amount of planned giving. A 2004 Congressional Budget Office analysis of charitable giving in the year 2000 indicated that estate tax not only provided an incentive for charitable giving at death, but also played a role in philanthropic decisions made during people's lives. The same report estimated that the repeal of the estate tax would result in a decrease in bequests of anywhere from 16 to 28 percent or \$13 billion to \$25 billion, more than total corporate donations in a year.

I ask my colleagues, which universities do you know could take a 16 to 28 percent hit to their endowment, coupled with the decreases in the market of the last year, and yet continue to prepare our students to be competitive in the global marketplace? This is the real-world impact of what would actually occur were the estate tax to be abolished in the year 2010, not to mention what would happen when it came back at 55 percent and only a \$1 million deduction the following year.

Now imagine in the worst case scenario devised by opponents of the estate tax. Imagine that came true for a family, that in order to pay the tax, the heirs had to liquidate the assets of a business that had been in the family for some time. Do opponents of this bill truly believe that somehow making the family pay capital gains tax on these assets if they had purchased them in 1959 would be better? I know in my district, due to the growth and economic success Colorado has enjoyed, taxation on real estate assets, as an example, from a 1959 basis would be devastating. It would capture a much larger portion of middle class families. Many middle class families and, indeed, wealthy families worth \$1 million, \$2 million, \$3 million would be stuck with large tax bills forcing liquidation if they were forced to pay capital gains tax on a 1950 basis or a 1959 basis.

I can't tell my constituents that I am against a permanent reduction in the estate tax and yet support a dramatic increase in capital gains taxation for them, which would bring the estate tax to upper middle class families. I hope the majority of my colleagues agree and will support the rule and the underlying bill.

I would like to thank Chairman RANGEL, the members of the Ways and Means Committee and their staffs for their efforts in bringing this bill, and the gentleman from North Dakota (Mr. POMEROY) for introducing this bill.

I urge my colleagues to consider that 99.75 percent of Americans will never pay this tax; and those who do should be thankful that they have had the opportunity to succeed in this great country and the privilege, the honor of being in a position where they are subject to this tax because their estates are worth more than \$3.5 million.

I would like to remind my colleagues who stand by the old adage "you can't take it with you," and I ask my friends and colleagues to consider the far-reaching benefits of charity and a sense of duty to country, and I ask for the passage of this rule and the underlying legislation.

I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY of Georgia. Mr. Speaker, I rise in strong opposition to this rule as well as the underlying bill, H.R. 4154, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009.

In 2001, this Congress passed legislation that was signed into law by President Bush that provided significant estate tax relief for families. Before this action was taken, individuals who passed away could face up to a 55 percent tax for estates valued over \$3 million. Additionally, if the value of those estates were between \$10 million and \$17 million, then the estates were hit with an additional 5 percent surtax, a grand total of 60 percent.

Since the 2001 tax cuts have been enacted, the overall estate tax has been gradually reduced. For deaths that occur in 2009, the estate tax ceiling is 45 percent for estates valued over \$1.5 million, but it allows up to \$3.5 million in assets to be exempted. Furthermore, current law dictates, and rightfully so, that the estate tax will be completely repealed in 2010.

Mr. Speaker, while a number of my colleagues on the other side of the aisle will claim that the estate tax in this bill will only affect the lavishly wealthy, the estate tax has the potential to drive a number of hardworking families, many of whom are small business owners, to liquidate assets and sell their businesses and farms that they have owned for generations. Clearly, this is not the intent of any form of an estate tax. And I don't believe that Rev. Rick Warren's remarks on "Meet the Press" this past Sunday were advocating that our children and our grandchildren should be born poor and die poor.

I wholeheartedly believe that there should be no "taxation without respiration," and I support a full repeal of the estate tax. Former Congressional Budget Office Director Douglas Holtz-Eakin issued a study earlier this year that indicated the long-term impact of eliminating the death tax would be to increase small business capital investment by \$1.6 trillion and create up to 1.5 million jobs, something this country, Mr. Speaker, desperately needs.

Unfortunately, this closed rule and underlying bill look to break the commitments made by Congress in 2001 by extending the estate tax at the 2009 level in perpetuity. And I am also concerned that although the exemption level is \$3.5 million under H.R. 4154, it is not properly indexed for inflation

and we could, therefore, find ourselves in a situation similar to the alternative minimum tax where individuals could inadvertently be subjected to the tax in the future.

I urge all of my colleagues to defeat this rule. Let's go back and have an open debate, as the gentleman from Florida said, on the repeal of the estate tax. That is what we should do.

Mr. POLIS. I am our final speaker, so I reserve the balance of my time to close.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 3 minutes to the gentlewoman from North Carolina (Ms. FOXX), my distinguished friend and colleague from the Rules Committee.

Ms. FOXX. Mr. Speaker, I want to say that this rule and the bill exemplify the arrogance of the majority party. Once again, they show their bias to government control of our lives as opposed to support of the American family. They also show their arrogance in bringing a closed rule because they indicate that this is a perfect bill. It hasn't been through committee. They allow no amendments, so they must consider it a perfect bill. We know there is at least one flaw, as my colleague from Georgia just indicated, and that is the problem with indexing. Just as we have had to fix the AMT every year, we will have to do that with this or else more and more people will be caught with this bill as it is proposed.

They continue to assault those who create jobs on the very day that the President is having a conference on jobs. They want to seem to be doing something positive while really doing great damage to our economy and hardworking Americans.

Mr. Speaker, I would like to refer to an article from *The Wall Street Journal* of 31 March 2009 and place it in the RECORD.

[From the *Wall Street Journal*, Mar. 31, 2009]  
NIGHT OF THE LIVING DEATH TAX

Lawrence Summers, President Obama's chief economic adviser, declared recently that "Let's be very clear: There are no, no tax increases this year. There are no, no tax increases next year." Oh yes, yes, there are. The President's budget calls for the largest increase in the death tax in U.S. history in 2010.

The announcement of this tax increase is buried in footnote 1 on page 127 of the President's budget. That note reads: "The estate tax is maintained at its 2009 parameters." This means the death tax won't fall to zero next year as scheduled under current law, but estates will be taxed instead at up to 45%, with an exemption level of \$3.5 million (or \$7 million for a couple). Better not plan on dying next year after all.

This controversy dates back to George W. Bush's first tax cut in 2001 that phased down the estate tax from 55% to 45% this year and then to zero next year. Although that 10-year tax law was to expire in 2011, meaning that the death tax rate would go all the way back to 55%, the political expectation was that once the estate tax was gone for even one year, it would never return.

And that is no doubt why the Obama Administration wants to make sure it never hits zero. It doesn't seem to matter that the

vast majority of the money in an estate was already taxed when the money was earned. Liberals counter that the estate tax is "fair" because it is only paid by the richest 2% of American families. This ignores that much of the long-term saving and small business investment in America is motivated by the ability to pass on wealth to the next generation.

The importance of intergenerational wealth transfers was first measured in a National Bureau of Economic Research study in 1980. That study looked at wealth and savings over the first three-quarters of the 20th century and found that "intergenerational transfers account for the vast majority of aggregate U.S. capital formation." The co-author of that study was ... Lawrence Summers.

Many economists had previously believed in "the life-cycle theory" of savings, which postulates that workers are motivated to save with a goal of spending it down to zero in retirement. Mr. Summers and coauthor Laurence Kotlikoff showed that patterns of savings don't validate that model; they found that between 41% and 66% of capital stock was transferred either by bequests at death or through trusts and lifetime gifts. A major motivation for saving and building businesses is to pass assets on so children and grandchildren have a better life.

What all this means is that the higher the estate tax, the lower the incentive to reinvest in family businesses. Former Congressional Budget Office director Douglas Holtz-Eakin recently used the Summers study as a springboard to compare the economic cost of a 45% estate tax versus a zero rate. He finds that the long-term impact of eliminating the death tax would be to increase small business capital investment by \$1.6 trillion. This additional investment would create 1.5 million new jobs.

In other words, by raising the estate tax in the name of fairness, Mr. Obama won't merely bring back from the dead one of the most despised of all federal taxes, and not merely splinter many family-owned enterprises. He will also forfeit half the jobs he hopes to gain from his \$787 billion stimulus bill. Maybe that's why the news of this unwise tax increase was hidden in a footnote.

Mr. Speaker, "Lawrence Summers, President Obama's chief economic adviser, declared recently that 'Let's be very clear: There are no, no tax increases this year. There are no, no tax increases next year.' Oh, yes, yes, there are. The President's budget calls for the largest increase in the death tax in U.S. history in 2010."

"The announcement of this tax increase was buried in footnote 1 on page 127 of the President's budget. That note reads: 'The estate tax is maintained at its 2009 parameters.' This means the death tax won't fall to zero next year as scheduled under current law, but estates will be taxed instead at up to 45 percent, with an exemption level of \$3.5 million . . . Better not plan on dying next year after all."

I know we are not discussing the President's budget here today with that bill, but I think this shows that they are trying every way possible to reinstitute what is probably the most hated tax in the United States. The American people understand this is not a fair tax, whether they are hit by it or not.

I want to read another piece from *The Wall Street Journal* article. "The



importance of intergenerational wealth transfers was first measured in a National Bureau of Economic Research study in 1980. That study looked at wealth and savings over the first three-quarters of the 20th century and found that 'intergenerational transfers account for the vast majority of aggregate U.S. capital formation.' The co-author of that study was . . . Lawrence Summers."

Mr. Summers understood this when he was first at Harvard.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield 30 more seconds.

Ms. FOXX. I appreciate the gentleman yielding me the additional time.

Mr. Speaker, this is not good for the American people at a time when we need to be creating jobs not destroying jobs. Again, the President wanted to create jobs with the stimulus. He has created no jobs with it. This is going to destroy even more jobs. This is the wrong direction to be going.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

□ 1100

Mr. GOHMERT. Mr. Speaker, I do agree with my friend from Colorado: we all should be paying our fair share. However, this Congress has said in the past maybe 39 percent should not pay their fair share. They won't pay any income tax. And this administration apparently has indicated he wants to take that at least to 44 percent of Americans not paying their fair share.

But what the death tax does is go after people who have paid at the highest levels of income tax throughout their lives and yet have still been frugal enough to build a business, build a farm, and then when they're dead, come in and take it away from them. They've paid their fair share.

Even though the argument is made that this won't affect that many people, that not that many people pay the estate tax. When something is not right, you need to draw the line. That is what the Founders did. They said principle is worth fighting for, and we will not give in to these confiscatory practices of the monarch in Great Britain. So we had a revolution.

Now, after someone dies, and someone comes in and steals from them, we consider that, in most societies, reprehensible. That is just despicable. I have sentenced people personally to prison for doing that. But when the government comes in, because we have the power to pass laws and legalize theft that otherwise would be considered reprehensible, it's okay. It is not okay. It is not okay.

I have a personal family situation. A great aunt and her husband, who predeceased her, built through generations a family farm. They were land rich, but money poor. They had employees. They

had things going on. They had a very active ranch. But when she died, the estate tax was 55 percent. And within the year, while the estate was being settled, the FDIC dumped land. The \$5 million estate fell in value. Land that was valued at \$2,000 at her death became valued at \$700 an acre. The IRS came in and sold every acre of my great aunt's land, her wonderful home where she had a will, she promised things to her direct descendants, we all had to gather at an auction the IRS forced to buy things from my great aunt. This is morally wrong.

And Jesus never advocated to the government, Go steal. He said, You do it, do it with your own money. Don't go steal it from somebody else. And that's why this should not pass.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 2 minutes to my distinguished friend from Texas (Mr. CULBERSON).

Mr. CULBERSON. Mr. Speaker, this debate today from every angle reminds me, once again, reinforces how proud I am to be a Texan and how proud I am to be a conservative Republican. Because the contrast is just astonishing, to think that today the Democratic President at the White House is holding a jobs summit and breakout sessions trying to figure out how to create jobs while his Democrat friends in Congress are creating a permanent death tax.

Raising taxes, once again, is the standard reaction of this majority that has controlled Congress since 2007. In my first year in 2001, I was here, proud to vote for the permanent repeal of the death tax, taking it to zero forever. The Democrats in the Senate prevented us from making that permanent by blocking it with 60 votes. And that is often a source of confusion. People need to remember, they often ask me, Why isn't the death tax repeal permanent? It is because Democrats in the Senate prevented us from getting 60 votes which was required to make it permanent. So we were stuck with this 10-year window.

And the reaction of the Democrat majority in Congress today is to create a permanent death tax and try to pitch it as a "tax reduction." It's absurd. It's sad. It illustrates clearly how blind the Democrat majority is to the fundamental truths of job creation. We in Texas understand that to create jobs you cut taxes. You pass tort reform to prevent frivolous lawsuits. We brought doctors into Texas by giving doctors medical malpractice caps and limits on lawsuits against doctors. People from all over the country have moved to Texas because of the number of jobs that we create with a low-tax environment and with litigation reform.

Mr. Speaker, these are self-evident truths. You create jobs by cutting taxes, by protecting businesses from excessive litigation and regulation. This is why I'm again reminded why I'm so proud to be a conservative Republican. I try not to use that word

often. But today it illustrates why we are going to have a revolution next year. In 2010, there is going to be a revolution at the ballot box, and we will have a conservative majority in this House because of votes like this to raise taxes.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it's my pleasure to yield 2 minutes to my distinguished friend from Louisiana (Mr. SCALISE).

Mr. SCALISE. Mr. Speaker, I want to thank my colleague from Florida for his leadership on this.

Mr. Speaker, the American people across the country are asking, Where are the jobs? And all they see from this Democrat-controlled Congress is more bills that will actually kill jobs and run jobs out of the country. And make no mistake about it: the death tax will kill more jobs in this country.

To place a permanent 45 percent tax on death is immoral. Think about this: the small businesses in our country are hit the hardest. The actual job creators in this country are hit the hardest by the death tax. When a family member dies, the biggest decision they make after that death should not be about how they have to sell their family business because they can't afford to pay the taxes upon death. And that's what happens under this death tax. And here they have a bill to enshrine the tax at 45 percent.

Now, if anyone wonders where are the jobs, as the President is holding a jobs summit, while unemployment smashed through the 10 percent mark earlier this year, all they have to do is look at the policies President Obama keeps bringing up. It started with the stimulus bill that didn't create jobs and just added more debt to our children and grandchildren. And then they brought the policies like this energy tax, the cap-and-trade energy tax, and then the government takeover of health care. And here we are today debating a bill that is going to enshrine a 45 percent tax on death. And Speaker PELOSI wouldn't even allow us to bring an amendment to the floor that would repeal it.

There is a clear contrast between the two parties on this issue. When we are in the majority, we will repeal the death tax, and here they've got a bill that will enshrine it at 45 percent permanently.

Taxation without respiration should not be the law of the land.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Speaker, I thank the gentleman for yielding. I could talk about a lot of bad things about this tax and this bill. I could talk about how inefficient it is, how it costs almost as much to collect as it raises in revenue. I could talk about how most of the income that would be taxed or most of the wealth would be taxed here has already been taxed once. I could talk about the morality of saying that in this country some people



are allowed to leave the fruits of a lifetime of work to their children, and other people are not allowed to leave the fruits of their lifetime work to their children.

But there are two other things I want to emphasize in this short time here this morning. One is that the one thing we need more than anything else in this country right now are jobs. And this bill will kill jobs. Why? Because when people are subject to this tax, they spend all their time, effort and money, and as a CPA who worked on this at one time I have seen it up front and close and personal, reducing the value of their wealth so they can reduce the tax. That does not create jobs.

Without this tax, if the tax were eliminated, those people would continue to be employing that wealth in income-producing efforts in the sorts of things that create jobs. But also this particular bill that's before us today is not indexed for inflation.

Now let's see. What other tax do we have that's not indexed for inflation? Oh, yeah, the alternative minimum tax, which when that was passed, this House was told, well, it is only going to tax 139 taxpayers. Don't you worry about it. It's just to get the very wealthy, just the really bad people. But now because it's not indexed for inflation, that tax now, instead of 139 people, hits 25 million people. And this death tax, not indexed for inflation, will do exactly the same thing, particularly when the inflation that the Obama administration is heading us towards comes together.

This is a bad bill. Defeat it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 4 minutes to my distinguished friend from Texas, the Ways and Means Subcommittee on Trade ranking member, Mr. BRADY.

Mr. BRADY of Texas. Mr. Speaker, I'm proud to be a co-chairman of the Death Tax Coalition in the U.S. House, those of us who understand the destructive levels of this tax on our family farms and small businesses in America.

Can you imagine working your whole life risking your money and your time working your weekends to either build your family farm or to start your business only to find out when you die, Uncle Sam swoops in and takes nearly half of all you spent a lifetime building up, takes half of what you had hoped to give to your children and grandchildren?

That is the death tax in America. It is the wrong tax. It is the wrong people at exactly the wrong time.

The only real solution to it is to fully and permanently repeal it, to solve it once and for all, to give family farms, small businesses, women and minority-owned businesses the peace of mind of knowing that they can hand down to their children the nest egg they have spent a life of toil, risk and taxation to build up.

That is what Republicans support. That is what we are going to vote for

today. And it is time to bury the death tax once and for all.

As they set the rules for this debate today, we naively think that Congress is a debate of ideas, the best ideas win. Unfortunately, the American public won't get to hear that debate or have that choice today because the Democrat majority did not allow an amendment, a bipartisan amendment, a better idea in how we help our family farms and small businesses survive.

This amendment was offered, a bipartisan one, by Congresswoman SHELLEY BERKLEY of Nevada, myself, Congressman ARTUR DAVIS of Alabama, and Congressman DEVIN NUNES of California. And it's an amendment supported by the groups that are most damaged by this death tax, small businesses, family farms, local printers and grocers and others. And what it did is provide a \$5 million exemption for the death tax and a below-35 percent tax rate in permanence.

This is an amendment to a bill that has strong bipartisan support. It has 37 cosponsors, and it has strong support from around the country. So when people say today, this is the best we can do? No, it's not.

It's not the best we can do. Given a choice, we have to do better for our family farms and small businesses. And there is no support for the overall bill from small businesses, family farms, from our local retailers, none at all. So rather than place on the floor a bipartisan bill that had broad support, they chose to offer a partisan bill that has no support.

It is time to solve this problem. It's time to bury the death tax once and for all. It's time to hear better ideas on this floor that can help create jobs in America, help generations go forward, and reward the people who work the hardest, work the longest, and work the smartest in hopes of handing nest eggs down to their children. The death tax is not just unfair; it is immoral and un-American.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 1½ minutes to my dear friend from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, unfortunately, we all know the sad news that under this administration and this Congress, our Nation has the worst, the worst unemployment rate in a generation. Over 3½ million of our fellow countrymen have lost their jobs since President Obama has come into office.

So what have our friends on the other side of the aisle tried to do? Well, they have tried to spend their way into job creation with a \$1.1 trillion government stimulus plan, a \$410 billion omnibus spending plan, and a threatened trillion dollar takeover of our health care system plan. Well, that didn't get us any jobs.

So they have tried to borrow their way into prosperity. Now we have the first trillion-dollar deficit in our Nation's history, a spending plan to triple, triple the national debt in the next 10 years.

So borrowing didn't work. Spending didn't work.

So here's the latest plan, Mr. Speaker. Let's have a perpetual plan to tax people when they die. Maybe that will create jobs in the economy.

Mr. Speaker, it doesn't work. It doesn't work. As the gentleman from Texas said, it is time to put the death tax to death. People have already paid. We will not start new businesses when you tax small businesses. It's time to get rid of the death tax once and for all.

It's an unfair tax. It ought to be an illegal tax.

Mr. LINCOLN DIAZ-BALART of Florida. I thank you, Mr. Speaker, for the courtesy, and my friend, Mr. POLIS, for his courtesy and all those who have participated in this debate. And I think the essence of the contrast of ideas that has been shown today is that we on this side of the aisle believe that we should be focused like a laser on job creation. I think Mr. HENSARLING said it very well, Will this legislation create jobs?

□ 1115

We don't think so. As a matter of fact, we are convinced that it will continue to take the country in the wrong direction with regard to employment. Unemployment continues to rise, and the majority brings more regulation, more taxes, and further stifles small business at a time when we should be encouraging jobs.

Mr. Speaker, we believe, as the overwhelming majority of the American people do, that Members should have the ability to read bills before they vote on them. It really shouldn't be an issue because that was promised by the distinguished Speaker during the campaign when the majority was campaigning to take the majority. And even on her Web site, you'll read Members should have at least 24 hours to examine bills before floor consideration.

But that hasn't been the case. I remember when the Rules Committee—at 3 in the morning we were handed a 900-page amendment to the so-called cap-and-trade energy legislation that we had to vote on simply hours afterward. And the American people were rightfully outraged about examples such as that. That's why there's legislation that's been filed by a bipartisan group that has 182 Members that have signed, right up there, right in front of you, Mr. Speaker, a discharge petition to have legislation brought to the floor requiring at least 72 hours before the legislation has to be voted on by this House.

So that's why today I'm asking for a "no" vote on the previous question so that we can consider that legislation, bipartisan legislation by Congressmen BAIRD and CULBERSON. It's not going to interrupt the death tax debate, the estate tax bill, because if the motion passes, the motion I'm making provides for separate consideration of the

Baird-Culberson bill within 3 days. So we can vote on the estate tax bill and then, once we're done, consider that legislation requiring the 72 hours.

I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. POLIS. Mr. Speaker, I want to begin by addressing some of the misconceptions and inaccuracies in the arguments that have been made on the other side of the aisle.

First, I'd like to address some made by the gentleman from Texas that this is a tax on those who have paid the highest tax rates throughout their lives. I'd like to dispute this notion. Many of the people who have accumulated great wealth in this country have, throughout their lives, paid the capital gains tax rather than the income tax rate. I, for one, and I'm, I think, the fourth- or fifth-wealthiest Member of this body—I've accumulated some degree of wealth with my success in the Internet sector, starting companies, selling them. I've paid the capital gains tax. That is a 15 percent tax, not a 39.6 or a 35 percent tax.

In a moment we will hear some quotes from Mr. Buffett, Mr. Gates and Mr. Soros, three wealthy Americans, all supporters of the estate tax. They have also accumulated their wealth and have paid the capital gains rate. In the case of, for instance, Bill Gates, the wealthiest American, he has paid a rate substantially below 15 percent, due to his charitable contributions. The rate that Mr. Gates has paid is probably somewhere in the 10–12 percent tax range.

So again, I have paid less percentage tax than members of my staff here in Congress that earn \$50,000, \$60,000 a year. They pay a higher tax rate. So it's inaccurate to say that those who are hit with the estate tax have paid the highest tax rate throughout their lives. There might be some movie stars, sports stars, high-wage earners that have been paying the high-income margins, highest marginal income tax rate throughout their lives. But the majority of wealth is accumulated on the capital side and has been subject to the capital gains rate, which had been 20 percent, more recently, 15 percent, and scheduled to return to 20 percent; regardless, well below the highest marginal rate.

I'd also like to address a remark made by my colleague from North Carolina, Dr. FOXX. She called this the biggest increase ever in the inheritance tax rate. Again, this is a decrease, a decrease in the inheritance tax. Yes, there is a 1-year effect. For the year 2010 alone, it's an increase. For every other year it's a decrease. Instead of 55

percent and \$1 million, every dollar above \$1 million would be taxed at 55 percent if we don't pass this in the year 2011 and beyond. We are reducing that.

This is a substantial decrease one of the largest decreases in the inheritance tax rate, to 45 percent from 55 percent in 2011 and beyond. And we're increasing the deduction. We're starting that at a \$3.5 million estate—that's a \$7 million estate for a couple that passes away, instead of a \$1 million deduction, to be clear. I'd further like to make it clear that repealing the estate tax and replacing it with a capital gains tax on the increase in basis would be a tax increase, as proposed by my colleagues on the other side of the aisle. This would be a tax increase for upper middle class families and would actually result in many families losing their family businesses.

If you have a \$3 million family business, family farm, under the Democratic proposal they pay zero tax. Under the Republican proposal, a \$3 million family estate or farm with a very low basis, they started it maybe with \$100,000 in the 1950s, so that's a \$3 million gain, that would be subject to \$450,000 capital gains tax. At 20 percent it would be over \$600,000 in taxes. That could result in the family losing the farm or losing the small business. Under the Democratic proposal we allow families to keep family farms and small businesses in the family.

Mr. Speaker, this bill is one of many steps that Congress must take towards an equitable Tax Code. The bill highlights Democratic commitments to fairness by making permanent the current estate tax exemption of \$3.5 million, \$7 million total, at a maximum tax rate of 45 percent. Opponents of this bill may say the estate tax should be repealed. Well, that's supporting a debt finance tax cut of \$1.3 trillion.

Yes, repealing the estate tax in its entirety would result in an increase in the deficit of \$1.3 trillion. That's \$1 trillion in lost revenue and \$277 billion in increased interest payments on our growing national debt. Does that sound like fiscal responsibility? The only result of repealing the estate tax would be that the .25 percent, quarter of 1 percent, of the wealthiest American families will pay a small estate tax, while other Americans won't have to suffer from increased debt.

Mr. Speaker, let's be honest with the American people. The estates of those 99.75 percent of Americans will continue to be tax free. As for those .25 percent that are subject to the tax, such as Bill Gates' estate, such as my own, we understand that "the government that protects our business activities, the traditions that enable us to rely on certain things happening, that's what creates capital and enables net worth to increase."

Those are Bill Gates' words, not mine. But I strongly agree. In Warren Buffett's opposition to the repeal of the estate tax, he said that the repeal of the estate tax would be akin to "choos-

ing the 2020 Olympic team by picking the eldest sons of the gold medal winners in the 2000 Olympics" because "without the estate tax, you in effect will have an aristocracy of wealth, which means you pass down the ability to command the resources of the nation based on heredity rather than merit."

America is, and should be, a meritocracy. Estate tax helps prevent a permanent aristocracy of the wealthy from arising in this country. Some opponents of the estate tax claim that it forces families to hand over half of their wealth to the government. But the facts simply don't support this claim. The truth is that few estates pay any estate tax whatsoever, and those that do, pay less than 20 percent of the value of their estate. We also know that the claims of rampant liquidation of farms is completely untrue. In fact, the American Farm Bureau Federation acknowledged to The New York Times that it couldn't find a single example of a farm to substantiate the claim, even when the estate tax was higher, 55 percent rather than the 45 percent it is today.

I'd like to give a quote from the president of the National Farmers Union, who says, "Family farmers and ranchers are insulted by those who use farmers as the reason for eliminating estate taxes." I'd also like to give a quote from George Soros. George Soros said, "The estate tax is the least damaging of all our taxation because it does not interfere with wealth creation. It increases social equality. It is so obvious estate taxation is a valuable taxation, and we should keep it."

Again, on a revenue neutral basis, I would much rather pay \$1,000 in tax after I die than before, when I'm using that capital to create value and jobs, or at least I was before I got to Congress.

Mr. Speaker, our choice here is clear. We can pass this bill which will remove the impact of the estate tax from 99.75 percent of Americans and give those who will pay this tax a substantially larger deductible. We can make sure that family businesses and family farms won't be subject to onerous taxation. Or we can increase the deficit by over \$1 trillion and increase taxes for estates of \$2 million, \$3 million, \$4 million with sizable capital gains within those estates.

Once again, I thank Chairman RANGEL, the members of the Committee on Ways and Means and their staffs, as well as Representative POMEROY, for bringing this important legislation to the floor. In America, it's not a sin to be rich, nor is it a crime to die rich. This bill gives our Nation's wealthiest families the ability to know exactly what their obligation to the Nation that fostered their wealth will be. And it is fair, and it is just.

Mr. Speaker, I'd ask my colleagues to join me on the side of facts, equity, and the 99 percent of Americans who will never pay this tax and who wish that

they were lucky enough to be successful enough to pay this tax, and remind them that a “no” vote is a vote against these principles.

I ask my colleagues to vote “yes” on the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009. I urge a “yes” vote on the previous question, and I urge a “yes” vote on the rule.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

AMENDMENT TO H. RES. 941 OFFERED BY MR. LINCOLN DIAZ-BALART OF FLORIDA

At the end of the resolution, insert the following new section:

SEC. 3. On the third legislative day after the adoption of this resolution, immediately after the third daily order of business under clause 1 of rule XIV and without intervention of any point of order, the House shall proceed to the consideration of the resolution (H. Res. 554) amending the Rules of the House of Representatives to require that legislation and conference reports be available on the Internet for 72 hours before consideration by the House, and for other purposes. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution and any amendment thereto to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Rules; (2) an amendment, if offered by the Minority Leader or his designee and if printed in that portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII at least one legislative day prior to its consideration, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read and shall be separately debatable for twenty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit which shall not contain instructions. Clause 1(c) of rule XIX shall not apply to the consideration of House Resolution 554.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

#### THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as “a motion to direct or control the consideration of the subject before the House being made by the Member in charge.” To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that “the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition” in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry,

asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: “The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.”

Because the vote today may look bad for the Democratic majority they will say “the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.” But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's “American Congressional Dictionary”: “If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.”

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled “Amending Special Rules” states: “a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.” (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.”

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. POLIS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adopting House Resolution 941, if ordered; agreeing to the Speaker's approval of the Journal, if ordered; and suspending the rules on House Resolution 28.

The vote was taken by electronic device, and there were—yeas 228, nays 187, not voting 19, as follows:

[Roll No. 923]

YEAS—228

Abercrombie	Becerra	Boswell
Ackerman	Berkley	Boucher
Adler (NJ)	Berman	Boyd
Altmire	Berry	Brady (PA)
Andrews	Bishop (GA)	Braley (IA)
Baca	Blumenauer	Bright
Baldwin	Bocieri	Brown, Corrine
Bean	Boren	Butterfield

Capps	Hoyer	Peters
Cardoza	Inslee	Peterson
Carnahan	Israel	Pingree (ME)
Carney	Jackson (IL)	Polis (CO)
Carson (IN)	Jackson-Lee	Pomeroy
Castor (FL)	(TX)	Price (NC)
Chandler	Johnson (GA)	Quigley
Chu	Johnson, E. B.	Rahall
Clarke	Kagen	Rangel
Clay	Kanjorski	Reyes
Cleaver	Kennedy	Richardson
Clyburn	Kildee	Rodriguez
Cohen	Kilpatrick (MI)	Ross
Connolly (VA)	Kilroy	Rothman (NJ)
Conyers	Kind	Roybal-Allard
Cooper	Kirkpatrick (AZ)	Ruppersberger
Costa	Kissell	Rush
Costello	Klein (FL)	Salazar
Courtney	Kucinich	Sánchez, Linda
Crowley	Langevin	T.
Cuellar	Larsen (WA)	Sanchez, Loretta
Cummings	Larson (CT)	Sarbanes
Dahlkemper	Lee (CA)	Schakowsky
Davis (AL)	Levin	Schauer
Davis (CA)	Lewis (GA)	Schiff
Davis (IL)	Lipinski	Schrader
Davis (TN)	Loebach	Schwartz
DeFazio	Lofgren, Zoe	Scott (GA)
DeGette	Lowe	Scott (VA)
Delahunt	Lujan	Serrano
DeLauro	Lynch	Sestak
Dicks	Maffei	Shea-Porter
Dingell	Maloney	Sherman
Doggett	Markey (CO)	Shuler
Doyle	Markey (MA)	Sires
Driehaus	Marshall	Skelton
Edwards (MD)	Massa	Slaughter
Edwards (TX)	Matheson	Smith (WA)
Ellison	Matsui	Snyder
Ellsworth	McCarthy (NY)	Space
Engel	McCollum	Speier
Eshoo	McDermott	Spratt
Etheridge	McIntyre	Stark
Farr	McMahon	Stupak
Fattah	McNerney	Tanner
Filner	Meek (FL)	Thompson (CA)
Foster	Meeks (NY)	Thompson (MS)
Frank (MA)	Michaud	Tierney
Fudge	Miller (NC)	Titus
Garamendi	Miller, George	Tonko
Grayson	Mollohan	Towns
Green, Al	Moore (KS)	Tsongas
Green, Gene	Moore (WI)	Van Hollen
Grijalva	Murphy (CT)	Velázquez
Gutierrez	Murphy (NY)	Visclosky
Hall (NY)	Murphy, Patrick	Walz
Halvorson	Murtha	Wasserman
Hare	Nadler (NY)	Schultz
Harman	Napolitano	Waters
Hastings (FL)	Neal (MA)	Watson
Heinrich	Oberstar	Watt
Herseth Sandlin	Obey	Waxman
Higgins	Olver	Weiner
Hinchey	Ortiz	Welch
Hinojosa	Owens	Wexler
Hodes	Pallone	Wilson (OH)
Holden	Pascrell	Woolsey
Holt	Pastor (AZ)	Wu
Honda	Payne	Yarmuth

NAYS—187

Aderholt	Buyer	Fallin
Akin	Calvert	Flake
Alexander	Camp	Fleming
Austria	Campbell	Forbes
Bachmann	Cantor	Fortenberry
Bachus	Cao	Fox
Baird	Capito	Franks (AZ)
Barrett (SC)	Carter	Frelinghuysen
Bartlett	Cassidy	Galleghy
Barton (TX)	Castle	Garrett (NJ)
Biggart	Chaffetz	Gohmert
Bilbray	Childers	Goodlatte
Bilirakis	Coble	Granger
Bishop (NY)	Coffman (CO)	Graves
Blackburn	Cole	Griffith
Blunt	Conaway	Guthrie
Boehner	Crenshaw	Hall (TX)
Bonner	Culberson	Harper
Bono Mack	Davis (KY)	Hastings (WA)
Boozman	Deal (GA)	Heller
Boustany	Dent	Hensarling
Brady (TX)	Diaz-Balart, L.	Herger
Broun (GA)	Diaz-Balart, M.	Hill
Brown (SC)	Donnelly (IN)	Himes
Brown-Waite,	Dreier	Hoekstra
Ginny	Duncan	Hunter
Buchanan	Ehlers	Inglis
Burton (IN)	Emerson	Issa

Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
Kaptur  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kline (MN)  
Kosmas  
Kratovil  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
LoBiondo  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McKeon

McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick  
Mitchell  
Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Nye  
Olson  
Paul  
Paulsen  
Pence  
Perriello  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen

Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Taylor  
Teague  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (FL)

## NOT VOTING—19

Arcuri  
Barrow  
Bishop (UT)  
Burgess  
Capuano  
Gerlach  
Giffords

Gingrey (GA)  
Gonzalez  
Gordon (TN)  
Hirono  
Lucas  
McGovern  
Melancon

Moran (VA)  
Perlmutter  
Ryan (OH)  
Sutton  
Young (AK)

□ 1153

Ms. KOSMAS and Messrs. FRANKS of Arizona and LUETKEMEYER changed their vote from “yea” to “nay.”

Mr. MOORE of Kansas changed his vote from “nay” to “yea.”

So the previous question was ordered.  
The result of the vote was announced as above recorded.

Stated for:

Ms. GIFFORDS. Mr. Speaker, on rollcall No. 923 I was unable to arrive in time to cast my vote. Had I been present, I would have voted “yea.”

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Ms. MATSUI. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 223, noes 192, not voting 19, as follows:

[Roll No. 924]

## AYES—223

Abercrombie  
Ackerman  
Adler (NJ)  
Altmire  
Andrews  
Arcuri  
Baca  
Baldwin  
Bean  
Becerra  
Berkley  
Berman

Berry  
Bishop (GA)  
Blumenauer  
Boccieri  
Boren  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Bright  
Brown, Corrine  
Butterfield

Capps  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn

Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (TN)  
DeGette  
DeLauro  
Dicks  
Dingell  
Doggett  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ellison  
Engel  
Eshoo  
Etheridge  
Farr  
Fattah  
Filner  
Foster  
Frank (MA)  
Fudge  
Garamendi  
Grayson  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Herseth Sandlin  
Higgins  
Hinchey  
Hinojosa  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kanjorski

Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kissell  
Klein (FL)  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
Loeb sack  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maffei  
Maloney  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
McIntyre  
McMahon  
McNerney  
Meek (FL)  
Meeks (NY)  
Michaud  
Miller (NC)  
Miller, George  
Mollohan  
Moore (KS)  
Moore (WI)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Oberstar  
Obey  
Olver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor (AZ)  
Payne  
Perlmutter  
Peterson  
Pingree (ME)  
Polis (CO)  
Pomeroy

Price (NC)  
Quigley  
Rahall  
Rangel  
Reyes  
Richardson  
Rodriguez  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Rush  
Ryan (OH)  
Salazar  
Sanchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Schakowsky  
Schauer  
Schiff  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Serrano  
Sestak  
Shea-Porter  
Sherman  
Sires  
Slaughter  
Smith (WA)  
Snyder  
Space  
Speier  
Spratt  
Stark  
Stupak  
Tanner  
Thompson (CA)  
Thompson (MS)  
Tierney  
Titus  
Tonko  
Towns  
Tsongas  
Van Hollen  
Velázquez  
Visclosky  
Obey  
Walz  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Wexler  
Wilson (OH)  
Woolsey  
Wu  
Yarmuth

## NOES—192

Aderholt  
Akin  
Alexander  
Austria  
Bachmann  
Bachus  
Baird  
Barrett (SC)  
Bartlett  
Barton (TX)  
Biggert  
Bilbray  
Bilirakis  
Bishop (NY)  
Blackburn  
Blunt  
Bonner  
Bono Mack  
Boozman  
Boustany  
Brady (TX)  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao

Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Childers  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Donnelly (IN)  
Dreier  
Duncan  
Ehlers  
Ellsworth  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Fox  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)

Giffords  
Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Griffith  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hill  
Himes  
Hoekstra  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
Kaptur  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kline (MN)  
Kosmas

Kratovil  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
LoBiondo  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick  
Mitchell  
Moran (KS)

Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Olson  
Paul  
Paulsen  
Pence  
Perriello  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt

Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuler  
Shuster  
Simpson  
Skelton  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Stearns  
Sullivan  
Taylor  
Teague  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (FL)

## NOT VOTING—19

Barrow  
Bishop (UT)  
Boehner  
Braley (IA)  
Burgess  
Capuano  
DeFazio

Gerlach  
Gonzalez  
Gordon (TN)  
Hirono  
Kagen  
Lucas  
McGovern

Melancon  
Moran (VA)  
Sutton  
Welch  
Young (AK)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1201

So the resolution was agreed to.  
The result of the vote was announced as above recorded.  
A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. GERLACH. Madam Speaker, Unfortunately, on Thursday, December 3, 2009, I missed two recorded votes on the House floor. Had I been present, I would have voted “nay” on rollcall 923 and “no” on rollcall 924.

## THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker’s approval of the Journal, which the Chair will put de novo.

The question is on the Speaker’s approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. HASTINGS of Florida. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 169, answered “present” 1, not voting 14, as follows:

[Roll No. 925]

AYES—250

Abercrombie Harman Ortiz  
Ackerman Hastings (FL) Owens  
Andrews Heinrich Pallone  
Baca Heller Pascarell  
Baird Herseth Sandlin Pastor (AZ)  
Baldwin Higgins Paul  
Bean Hill Paulsen  
Becerra Himes Payne  
Berkley Hinchey Perlmutter  
Berman Hinojosa Peters  
Berry Hirono Peterson  
Biggert Hodes Petri  
Bilbray Holden Pingree (ME)  
Bishop (GA) Holt Pitts  
Bishop (NY) Honda Polis (CO)  
Blackburn Hoyer Pomeroy  
Blumenauer Inslee Posey  
Boren Israel Price (NC)  
Boswell Jackson (IL) Putnam  
Boucher Jackson-Lee (TX)  
Boyd Johnson (GA)  
Brady (PA) Johnson (IL)  
Braley (IA) Johnson, E. B.  
Brown, Corrine Kagen  
Butterfield Kanjorski  
Capito Kaptur  
Capps Kennedy  
Cardoza Kildee  
Carnahan Kilpatrick (MI)  
Carney Kind  
Carson (IN) Kirk  
Castle Kissell  
Castor (FL) Klein (FL)  
Chaffetz Kosmas  
Chandler Kratochvil  
Childers Kucinich  
Chu Lance  
Clarke Langevin  
Clay Larsen (WA)  
Cleaver Larson (CT)  
Clyburn Latham  
Cohen Lee (CA)  
Conyers Levin  
Cooper Lewis (GA)  
Costello Lipinski  
Courtney Loebsock  
Crowley Lofgren, Zoe  
Cuellar Lowey  
Cummings Luetkemeyer  
Davis (AL) Luján  
Davis (CA) Lynch  
Davis (IL) Mack  
Davis (TN) Maffei  
DeFazio Maloney  
DeGette Markey (MA)  
Delahunt Massa  
DeLauro Matheson  
Dent Matsui  
Dicks McCarthy (NY)  
Dingell McClintock  
Doggett McCollum  
Doyle McCotter  
Driehaus McDermott  
Edwards (MD) McIntyre  
Edwards (TX) McMahon  
Ellison McNerney  
Ellsworth Meek (FL)  
Engel Meeks (NY)  
Eshoo Michaud  
Etheridge Miller (NC)  
Farr Miller, George  
Fattah Mollohan  
Filner Moore (KS)  
Foster Moore (WI)  
Frank (MA) Murphy (CT)  
Fudge Murphy (NY)  
Garamendi Murphy, Patrick  
Goodlatte Murtha  
Grayson Nadler (NY)  
Green, Al Napolitano  
Griffith Neal (MA)  
Grijalva Oberstar  
Gutierrez Obey  
Hall (NY) Oliver  
Hare

NOES—169

Aderholt Barrett (SC)  
Adler (NJ) Bartlett  
Akin Barton (TX)  
Alexander Bilirakis  
Altmire Broun (GA)  
Arcuri Boccieri  
Austria Boehner  
Bachmann Bonner  
Bachus Bono Mack

Burton (IN) Hunter  
Buyer Inglis  
Calvert Issa  
Camp Jenkins  
Campbell Johnson, Sam  
Cao Jones  
Carter Jordan (OH)  
Cassidy Kilroy  
Coble King (IA)  
Coffman (CO) King (NY)  
Cole Kingston  
Conaway Kirkpatrick (AZ)  
Connolly (VA) Kline (MN)  
Costa Lamborn  
Crenshaw LaTourette  
Culberson Latta  
Dahlkemper Lee (NY)  
Davis (KY) Lewis (CA)  
Deal (GA) Linder  
Diaz-Balart, L. LoBiondo  
Diaz-Balart, M. Lummis  
Donnelly (IN) Lungren, Daniel  
Dreier E.  
Duncan Manzullo  
Ehlers Marchant  
Emerson Markey (CO)  
Fallon Marshall  
Flake McCarthy (CA)  
Fleming McCaul  
Forbes McHenry  
Fortenberry McKeon  
Foxy McMorris  
Franks (AZ) Rodgers  
Frelinghuysen Mica  
Gallegly Miller (FL)  
Garrett (NJ) Miller (MI)  
Gerlach Miller, Gary  
Giffords Minnick  
Greney (GA) Mitchell  
Granger Moran (KS)  
Graves Murphy, Tim  
Guthrie Myrick  
Hall (TX) Neugebauer  
Halvorson Nunes  
Harper Nye  
Hastings (WA) Olson  
Hensarling Pence  
Herger Perriello  
Hoekstra Platts

ANSWERED “PRESENT”—1

Gohmert

NOT VOTING—14

Barrow Gonzalez Melancon  
Bishop (UT) Gordon (TN) Moran (VA)  
Burgess Green, Gene Watt  
Cantor Lucas Young (AK)  
Capuano McGovern

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CUMMINGS) (during the vote). Two minutes remain in this vote.

□ 1208

Ms. KILROY and Mr. ADLER of New Jersey changed their vote from “aye” to “no.”

So the Journal was approved.

The result of the vote was announced as above recorded.

### ENHANCING SECURITY TO RAIL AND MASS TRANSIT LINES

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 28, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. JACKSON-LEE) that the House suspend the rules and agree to the resolution, H. Res. 28, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 3, not voting 14, as follows:

[Roll No. 926]

YEAS—417

Abercrombie Dahlkemper Jackson-Lee  
Ackerman Davis (AL) (TX)  
Aderholt Davis (CA)  
Adler (NJ) Davis (IL)  
Akin Davis (KY)  
Alexander Davis (TN)  
Altmire Deal (GA)  
Andrews DeFazio  
Arcuri DeGette  
Austria Delahunt  
Baca DeLauro  
Bachmann Dent  
Bachus Diaz-Balart, L.  
Baird Diaz-Balart, M.  
Baldwin Dicks  
Barrett (SC) Dingell  
Bartlett Doggett  
Barton (TX) Donnelly (IN)  
Bean Doyle  
Becerra Dreier  
Berkley Driehaus  
Berman Duncan  
Berry Edwards (MD)  
Biggert Edwards (TX)  
Bilbray Ehlers  
Bilirakis Ellison  
Bishop (GA) Ellsworth  
Bishop (NY) Emerson  
Blackburn Engel  
Blumenauer Eshoo  
Blunt Etheridge  
Boccieri Fallin  
Boehner Farr  
Bonner Fattah  
Bono Mack Filner  
Boozman Fleming  
Boren Forbes  
Boswell Fortenberry  
Boucher Foster  
Boustany Fox  
Boyd Frank (MA)  
Brady (PA) Franks (AZ)  
Brady (TX) Frelinghuysen  
Braley (IA) Fudge  
Bright Gallegly  
Broun (GA) Garamendi  
Brown (SC) Garrett (NJ)  
Brown, Corrine Gerlach  
Brown-Waite, Giffords  
Ginny Gingrey (GA)  
Buchanan Gohmert  
Burton (IN) Goodlatte  
Butterfield Granger  
Buyer Graves  
Calvert Grayson  
Camp Green, Al  
Campbell Green, Gene  
Cantor Griffith  
Cao Grijalva  
Capito Guthrie  
Capps Gutierrez  
Cardoza Hall (NY)  
Carnahan Hall (TX)  
Carney Halvorson  
Carson (IN) Hare  
Carter Hare  
Cassidy Harman  
Castle Harper  
Castor (FL) Hastings (FL)  
Chaffetz Hastings (WA)  
Chandler Heinrich  
Childers Heller  
Chu Hensarling  
Clarke Herger  
Clay Herseth Sandlin  
Cleaver Higgins  
Clyburn Hill  
Coble Himes  
Coffman (CO) Hinchey  
Cohen Hinojosa  
Cole Hirono  
Conaway Hodes  
Connolly (VA) Hoekstra  
Conyers Holden  
Cooper Holt  
Costa Honda  
Costello Hoyer  
Courtney Hunter  
Crenshaw Inglis  
Crowley Inslee  
Cuellar Israel  
Culberson Issa  
Cummings Jackson (IL)



Murphy (CT)	Rogers (KY)	Speier
Murphy (NY)	Rogers (MI)	Spratt
Murphy, Patrick	Rohrabacher	Stark
Murphy, Tim	Ros-Lehtinen	Stearns
Murtha	Roskam	Stupak
Myrick	Ross	Sullivan
Nadler (NY)	Rothman (NJ)	Sutton
Napolitano	Roybal-Allard	Tanner
Neal (MA)	Royce	Taylor
Neugebauer	Ruppersberger	Teague
Nunes	Rush	Terry
Nye	Ryan (OH)	Thompson (CA)
Oberstar	Ryan (WI)	Thompson (MS)
Obey	Salazar	Thompson (PA)
Olson	Sánchez, Linda	Thornberry
Olver	T.	Tiahrt
Ortiz	Sanchez, Loretta	Tiberi
Owens	Sarbanes	Tierney
Pallone	Scalise	Titus
Pascarella	Schakowsky	Tonko
Pastor (AZ)	Schauer	Towns
Paulsen	Schiff	Tsongas
Payne	Schmidt	Turner
Pence	Schock	Upton
Perlmutter	Schrader	Van Hollen
Perriello	Schwartz	Velázquez
Peters	Scott (GA)	Visclosky
Peterson	Scott (VA)	Walden
Petri	Sensenbrenner	Walz
Pingree (ME)	Serrano	Wamp
Pitts	Sessions	Wasserman
Platts	Sestak	Schultz
Poe (TX)	Shadegg	Waters
Polis (CO)	Shea-Porter	Watson
Pomeroy	Sherman	Watt
Posey	Shimkus	Waxman
Price (NC)	Shuler	Weiner
Putnam	Shuster	Welch
Quigley	Simpson	Westmoreland
Radanovich	Sires	Wexler
Rahall	Skelton	Whitfield
Rangel	Slaughter	Wilson (OH)
Rehberg	Smith (NE)	Wilson (SC)
Reichert	Smith (NJ)	Wittman
Reyes	Smith (TX)	Wolf
Richardson	Smith (WA)	Woolsey
Rodriguez	Snyder	Wu
Roe (TN)	Souder	Yarmuth
Rogers (AL)	Space	Young (FL)

NAYS—3

Flake	Lummis	Paul
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NOT VOTING—14

Barrow	Gonzalez	Moran (VA)
Bishop (UT)	Gordon (TN)	Price (GA)
Burgess	Lucas	Rooney
Capuano	McGovern	Young (AK)
Carnahan	Melancon	

□ 1215

So (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title was amended so as to read: "Resolution expressing the sense of the House of Representatives that the Transportation Security Administration should, in accordance with the congressional mandate provided for in the Implementing Recommendations of the 9/11 Commission Act of 2007 as well as other statutes, enhance security against terrorist attack and other security threats to our Nation's rail and mass transit systems and other modes of surface transportation."

A motion to reconsider was laid on the table.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1880

Mr. CLAY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1880.

The SPEAKER pro tempore (Mr. PAS-  
TOR of Arizona). Is there objection to the request of the gentleman from Mis-  
souri?

There was no objection.

#### PERMANENT ESTATE TAX RELIEF FOR FAMILIES, FARMERS, AND SMALL BUSINESSES ACT OF 2009

Mr. RANGEL. Mr. Speaker, pursuant to House Resolution 941, I call up the bill (H.R. 4154) to amend the Internal Revenue Code of 1986 to repeal the new carryover basis rules in order to prevent tax increases and the imposition of compliance burdens on many more estates than would benefit from repeal, to retain the estate tax with a \$3,500,000 exemption, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 941, the bill is considered read.

The text of the bill is as follows:

H.R. 4154

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009".

#### SEC. 2. RETENTION OF ESTATE TAX; REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subtitles A and E of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such subtitles, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such subtitles, and amendments, had never been enacted.

(b) SUNSET NOT TO APPLY.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act.

#### (c) CONFORMING AMENDMENTS.—

(1) Sections 511(d) and 521(b)(2) of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such sections, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such sections, and amendments, had never been enacted.

(2) Subsection (c) of section 2511 of the Internal Revenue Code of 1986 is hereby repealed.

#### SEC. 3. MODIFICATIONS TO ESTATE AND GIFT TAXES.

(a) \$3,500,000 APPLICABLE EXCLUSION AMOUNT.—Subsection (c) of section 2010 of the Internal Revenue Code of 1986 (relating to applicable credit amount) is amended by striking all that follows "the applicable exclusion amount" and inserting ". For purposes of the preceding sentence, the applicable exclusion amount is \$3,500,000."

(b) FREEZE MAXIMUM ESTATE AND GIFT TAX RATES AT 45 PERCENT.—Subsection (c) of section 2001 of such Code is amended—

(1) by striking paragraph (2),

(2) by striking so much of paragraph (1) as precedes the table contained therein, and

(3) by striking the last 2 items in the table and inserting the following new item:

Over	\$555,800, plus 45 percent of the excess of such amount over \$1,500,000."
\$1,500,000.	

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after December 31, 2009.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL)

and the gentleman from Michigan (Mr. CAMP) each will control 30 minutes.

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and insert extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I, along with Ways and Means Ranking Member DAVID CAMP, have asked the nonpartisan Joint Committee on Taxation to make available to the public a technical explanation of the bill. The technical explanation expresses the committee's understanding and the legislative intent behind this important legislation. It is available on the Joint Committee's Web site at [www.jct.gov](http://www.jct.gov) and is listed under document No. JCX-57-09.

Mr. Speaker, I rise in support of H.R. 4154, a bill that would provide permanent, responsible estate tax relief to taxpayers.

This is a rough time for us in this great country in terms of joblessness, hopelessness. And the Congress has to work together as one unit with the President in order to restore confidence among the millions of people that today find themselves without jobs. In order to do this, we have to work at everything that we can to make certain that those that are in the position to create jobs that we give them the tools to work with so that we can get people off the unemployment lines and back into business.

Members of Congress hear every day from their constituents how difficult it is to keep up with the current state of our tax laws as a result of the temporary nature of so many provisions in the Internal Revenue Code. So not only is there an argument in terms of what the rate should be in terms of estate tax relief, but there's an argument, for God's sake, do something. And that is why the Ways and Means Committee has agreed that we have to give a stable tax program that our business people can rely on and plan on so that we can bring stability to industry and get our people back to work.

The majority of the provisions included in 2001 and 2003 were made temporary because there was an intent that we review the estate tax. And Members are familiar with the extending of expiring tax provisions, ultimately reducing them, and we are here to make certain that the doubts as to where we're going to go will be eliminated.

So this week we have some certainty in our Tax Code as we enact a permanent extension of the 2009 estate tax exemption, and certainly people would see that it wasn't an easy decision to find what was compatible with most of

the people in this House, but the work of EARL POMEROY that he has done over the years and the suggestions that he's made, the people that he's talked with, allow us to say that we have made the best possible arrangement so that people would know what they should expect as it relates to estate tax.

Mr. Speaker, I yield the balance of my time to the gentleman from North Dakota (Mr. POMEROY) for him to be able to appoint Members as he sees fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CAMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, death in and of itself should not be a taxable event. Death should not force the sale of family farms or the dissolution of small businesses. The fear of death should not be a reason for an American to hire a battery of accountants and lawyers to find legal ways to reduce the bite of the estate tax. And after a long wait, we're about to realize that goal. Set in motion by a law passed by the Republican Congress earlier this decade, there will be no death tax in 2010. That's just 29 days away.

The bill before us, however, would resurrect the death tax next month and apply a 45 percent tax rate to estates above a \$3.5 million exemption amount. The majority claims to be offering certainty to taxpayers, and I suppose in a way they are.

They are certainly repealing the hope of ever eliminating the death tax. They are replacing that with the certainty of a Federal tax rate that at 45 percent must be considered confiscatory. No American should have the Federal Government take nearly half of their net worth.

They're providing the certainty of an exemption that is not indexed for inflation, meaning that over time it is certain that more and more family farms and small businesses will be subject to this punishing tax. Just take a look at the AMT.

Mr. Speaker, one other thing that is certain about this bill is that it is unlikely to be approved before the end of the year. As we are all aware, the Senate is fully engaged in the health care debate. It is unlikely to break from that to consider this bill this month, particularly since a clear majority of the Senate has indicated its support for a far more equitable and bipartisan death tax relief measure.

We all understand that the current situation would benefit from a permanent solution, but this is not the right one, and I urge its defeat.

Mr. Speaker, I reserve the balance of my time, and I ask unanimous consent the remainder of my time be controlled by the gentleman from Texas (Mr. BRADY).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. POMEROY. Mr. Speaker, I yield myself 3 minutes.

I want to thank the Speaker, Leader HOYER, and Chairman RANGEL for bringing this bill to the floor today.

The purpose of this bill is very straightforward: establish clarity and certainty in the Tax Code for the estate tax while exempting 99.7 percent of the estates in this country from this estate tax altogether.

The estate tax has changed 10 times in the last 11 years. Now, this has been a bonanza for the attorneys, the accountants, the planners, but it has been very unfortunate for the American people trying to make reasonable plans for their estates.

If recent history is bad, the next 2 years become completely absurd when it comes to the estate tax thanks to a law passed by Congress in 2001, estate tax repeal in 2010 replaced with a new capital gains tax that will impact many more farmers. In fact, for the 6,000 estates estimated to benefit from the tax change next year, 71,000 will find themselves with new tax obligations, this capital gains tax. Additionally, come 2011 the repeal goes away. In this Tax Code they repeal the repeal and we're back at a \$1 million level for estates, \$2 million joint, a 55 percent rate, the very rate it was in 2001.

There's going to be a lot of talk on the other side about how this law should go forward for the benefit of family farms. Let me tell you, the capital gains tax they are proposing for family farms is a catastrophe.

Let's say Grandma buys a farm at \$100 an acre. It's now worth \$2,000 an acre. She deeds it to you. She passes. You acquire the property. You go to sell the farm. You're going to pay capital gains tax under present law on all appreciated value over the \$100-an-acre initial acquisition price. That's because under present law carryover basis is substituted for what we have under the existing framework, statutory basis.

Here's what the Farm Bureau said about carryover basis when it was considered some time ago, in 1979: carryover basis fosters an insidious bias against farmers and ranchers. And that's precisely what they would create.

Look at this. No estates with capital gains tax burden and 71,000 suddenly with capital gains burden under the law if we allow it to go into effect next year.

Another byproduct of this bill is to establish certainty once and for all on what the estate tax level is.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. POMEROY. I yield myself an additional 30 seconds.

The 2009 level represents an exclusion from estate tax that is 75 percent higher than last year alone, where it went from \$2 million up to \$3.5 million. This chart shows who pays the tax and who doesn't under the 2009 law. You may not be able to see this little sliver. It's

because it represents .25 of 1 percent. The estate tax goes away for 99.75 percent. That is almost perfection, about as close as this body is ever going to get. That's why we should vote for this bill and move it forward.

Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

I rise in opposition to this bill.

Can you imagine working your whole life to keep your family farm or to build up a small business, and then when you die Uncle Sam swoops in and takes up as much as half of all you've spent a lifetime working for? That's what the death tax does. It is wrong, it is immoral, and in many ways un-American.

This was brought home to me early in my first term in Congress. I had a family nursery in Texas. They have three nurseries. The parents had created it and built it up. Two of the three kids were working in it that day, and they just sat down with a pen and paper. They showed me the value of their nursery, talked about the death tax, and worked it through. And the bottom line was that if they could take out enough insurance on their parents' deaths, and because they're out of debt, if they could go back to the bank and borrow enough money, they might be able to pay their death tax bill.

Think of what they're saying: If we make enough money off our parents' death and we can borrow enough money, the government might let us keep our family business. The government might let us keep our family business. That's why the death tax is wrong, and that's why it is in many cases, if not all, simply un-American.

Today we have a bill that is the result of hard work by my friend from North Dakota (Mr. POMEROY), but I object because I believe we can do better.

□ 1230

Some say at the end of the day if this bill passes, it will only impact a few estates. But the truth is, when it passes, still, the number one reason family farms and small businesses will not be passed down to the next generation is the death tax; and the number one reason the fastest growing number of entrepreneurs, women, and minority-owned businesses will not be passed down to the next generation. And this is the first generation of wealth building. It will be the same death tax.

While it is fun to hear them talk about Bill Gates and Donald Trump and George Soros, the people most hurt by this tax are Bill the farmer or Donna the florist or George the funeral director, real people building wealth in our communities who oppose this death tax. These are not the aristocracies that are being referred to in this debate.

We are told that this bill will be permanent and provide certainty. Well, it does create a permanently high tax



rate and a permanently destructive tax rate; 45 percent is simply too high. And because, like the AMT, it is not indexed for inflation, it is certain to ensnare more and more family farms and small businesses in future generations. We have seen this play before. The alternative minimum tax was created to tackle and address only 100-plus of the wealthiest Americans in the United States, but because it wasn't indexed for inflation, today it would impact 24 million middle class Americans. We are going to see that same creep, those same small businesses and middle American families affected by this death tax in future generations.

We are told, and I think sincerely, that this is the best we can do as a Congress. I don't believe it is. I so much appreciate Mr. POMEROY's efforts. I know a lot of the groups that make up the death tax coalitions that are working to eliminate the death tax or find a reasonable compromise. They appreciate what he is doing as well. But we have to do better. And don't take my word for it. If you listen to the groups most intimately damaged by the death tax, from our Farm Bureau to our National Federation of Independent Businesses, from our grocers and funeral directors, from local newspapers and other groups, they have not given support to this bill because it still leaves intact the third highest death tax rate in the developed world, and it damages them too greatly.

My thought is that rather than place on the floor, as Democrats did, unfortunately, a partisan bill that is supported by none of the groups most affected, that we ought to have offered a bill by the gentlewoman from Nevada (Ms. BERKLEY) and the gentleman from Alabama (Mr. DAVIS) and others that has the strong support of 49 national organizations and bipartisan support of the bill. Unfortunately, it was not allowed as an amendment to the bill and it would be ruled out of order as a motion to recommit, so we don't have an opportunity to come together as a Congress on this issue.

At this time, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I just observe that the Tax Policy Center estimates that 100 farms or small businesses are estimated to be impacted by the estate tax under the 2009 levels across the entire country, and CRS has estimated that one-half of 1 percent of those may be in a position of having to liquidate something.

I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I thank my friend, Mr. POMEROY.

I stand before you to support H.R. 4154. Some of my colleagues on the other side of the aisle want you to believe, and we have heard this before, that everybody is going to pay an estate tax. If you listen to the rhetoric, and I am glad we are looking at the world. I am glad we are looking at the

world, and we will find out on the health issue we are now 40th in terms of infant mortality. But let's look at the world. You are incorrect and it is very unfair when you claim that this is a tax for all Americans—it is not—and all family businesses. It is not. In fact, it is American to act on shared responsibility.

The Citizens for Tax Justice just recently made this very clear, December 2: It follows that it is reasonable to tax the transfer of enormous estates, most of which consist of income that was never taxed. That's what you are protecting, the folks that have estates that have never been taxed. You want to throw a shield over them to protect what you did protect in 2001, which you did protect in 2003. You want to protect it from one generation of super-rich families so they can send it on to another group.

Since 1990s, opponents of the tax have even used the pejorative term "death tax." But they are flat out wrong. The estate tax affects only estates of significant size—presently, right now, over \$3.5 million for individuals and \$7 million for couples.

The fact is that the estate tax is the most progressive tax in our Federal tax system. What you are suggesting is very regressive. Only the top 0.2 percent of the income earners paid all of the estate taxes collected.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. POMEROY. I yield the gentleman an additional 30 seconds.

Mr. PASCRELL. If we do nothing, then 44,400 estates that are not currently subject to the estate tax will become targets. The point I want to make now is that many estates have paid no taxes. That is not shared responsibility.

Under our bill, only the top 7,600 estates in the country will be subject to the estate tax in 2011. The truth of the matter is that I don't know any working class American families that own estates worth over \$7 million. It is insidious to infer anything different.

Mr. BRADY of Texas. I yield myself 15 seconds.

I would point out that more and more Americans will be ensnared in the death tax because it is not indexed, like the AMT. And I would point out, we would not be here today if President Clinton had not vetoed the death tax repeal in 1999.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BRADY of Texas. I yield myself an additional 15 seconds.

And I would further point out that polls consistently show 70 percent of Americans support the complete and full repeal of the death tax because it is un-American for this country to swoop in and take up nearly half of what you have spent a lifetime building up and wanting to hand down to your children and grandchildren.

With that, I yield 3 minutes to the distinguished gentleman from Cali-

fornia (Mr. HERGER) who has worked on the death tax issue as a senior member of the Ways and Means Committee.

Mr. HERGER. I thank my friend and gentleman from Texas for all of the work he has done on this incredibly cruel tax.

Mr. Speaker, far too many families have faced the grim prospect of selling the family farm or business in order to pay the taxes that are due when a loved one dies. My own cousins had to sell their farm that had been in our family since the early 1900s just to pay the death tax. Mr. Speaker, this is simply wrong.

Although it is encouraging that Congress is attempting to provide a long-term certainty about death tax rates, the bill before us falls far short of a stable solution for agriculture and small business. The proposed exemption is simply not enough to protect family farmers, especially with the high cost of land in California and other heavily populated States.

Worse yet, H.R. 4154 fails to index the exemption amount for inflation, thus guaranteeing a repeat of the alternative minimum tax disaster with more and more families facing the death tax in future years. That's why leading pro-agricultural groups like the California Farm Bureau and National Cattlemen's Association do not support this bill.

Mr. Speaker, this House has voted five times since 2001 to repeal the death tax entirely. In fact, no fewer than 65 members of the current Democrat majority have voted to fully repeal the death tax. It is time to end this unfair and cruel death tax once and for all.

Mr. POMEROY. Mr. Speaker, I would just observe that the estate tax level last year was \$2 million, this year \$3.5 million, a 75 percent increase in the exclusion. Now, that is quite an index by anybody's measure.

I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL), a member of the Ways and Means Committee.

Mr. NEAL of Massachusetts. Mr. Speaker, if it were up to me, this would not have been done the way it is playing out today. I believe that this issue should be taken up in the context of tax reform, which the Ways and Means Committee and the House should visit next year, but it is what it is.

But the most important reminder here today for all of us is this: This is not the House of Lords. This is not about peerage. This is not about, in America, being born to any class or any race that offers superiority. This is not permanent wealth. This is not the argument that because of your last name, you ought to be entitled to a special privilege in what is the most egalitarian society that the world has known.

But the truth is that the extension that we are offering today takes us down the path to reform, and that is where I hope we end up. We need the certainty as to estate tax rules come

January 1. If we let the current rules expire, there will be estates that are harmed by a loss of step-up in basis. This pits the ultrarich—who, by the way, are the ones who seek repeal—against the moderately rich who we attempt to assist here in this step-up in basis.

But I want to quote Warren Buffett on the issue of estate tax. And, incidentally, he was cleverly left out by the other side as they ascribed responsibility for repeal of the estate tax. Warren Buffett said, “Dynastic wealth, the enemy of a meritocracy, is on the rise. Equality of opportunity has been on the decline. A progressive and meaningful estate tax is needed to curb the movement of a democracy toward plutocracy.”

This body is a reflection of meritocracy in American society. It is unlike other legislative institutions in other parts of the world. You get here largely on merit.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. POMEROY. I yield the gentleman an additional 30 seconds.

Mr. NEAL of Massachusetts. I am going to close on the note on which I opened: This is not the way I would have done this, but I do think that Mr. POMEROY has made a valiant effort to find some middle ground as we proceed to next year.

This legislation makes permanent the current estate tax rules that include a 45 percent rate and a \$3.5 million exemption for individuals and \$7 million for couples. It achieves a middle ground among the various proposals offered, and it helps allow for tax planning certainty.

Mr. BRADY of Texas. Mr. Speaker, I yield 2 minutes to the lead Republican on the Small Business Committee, the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Speaker, I rise in opposition to H.R. 4154. While I appreciate the efforts of my colleague from North Dakota, this bill is not the answer. The bottom line is that death should not be a taxable event.

I find it amazing that the people who are going to get hurt the most by this, the small business men and the farmers, are being referred to as the rich and the moderately rich, which couldn't be farther from the case.

Small businesses and family farmers have felt slighted in Washington over the past 2 years. Congress has bailed out irresponsible players on Wall Street, pushed policies that will increase costs on small businesses and tax them at every turn to pay for the Big Government agenda.

Today we have yet another bill on the floor that ignores the small guy. H.R. 4154 is not indexed for inflation, so small businesses will be forced to pay the death tax in future years. More small businesses will be forced to pay that tax.

Additionally, the bill does not take into account capital-intensive small

firms whose expensive equipment will cause them to be subject to this onerous tax. If Congress were serious about helping small businesses in this economic downturn, it would be debating a bill on the floor that repeals the death tax.

□ 1245

I would urge my colleagues to oppose this bill so that Congress can have an opportunity to bring real solutions to the table for our entrepreneurs and our farmers.

Mr. POMEROY. The bill on the floor would establish the capital gains exclusion at \$7 million for a couple. I don't think we've ignored the small guys one bit with this legislation.

I yield Mr. BLUMENAUER of Oregon 2 minutes.

Mr. BLUMENAUER. I appreciate the gentleman's courtesy as I appreciate his leadership on this issue.

This is the culmination of a 12-year example of how not to create tax policy. I listened with interest to my good friend from Texas say, you know, they can do better than this bill. Well, ladies and gentlemen, they had 12 years to do better. And what did the Republicans do? They didn't reform the inheritance tax. What they did is they established a 10-year gain where it was reduced a little bit each year until next year it disappears, and then they give it back to the American people at a \$1 million level and 55 percent marginal rate. That is the best they could do.

And as my good friend from North Dakota pointed out, it's even worse than that because they would have 70,000, not 7,000, the top two-tenths of a percent, but 70,000 people who are the real small business, the entrepreneurs, be subject to a capital gains tax. And I will tell you that the tax itself is only the tip of the iceberg because it will be an accounting nightmare to go back and figure out what grandma paid or what Uncle Charlie paid for the asset. Some people will spend more time researching and on accountants than they will pay in the tax. That's the best that the Republicans could do.

What Mr. POMEROY and our committee have done is to take generous levels, \$3.5 million per person, and exempt below that the administrative nightmare of the capital gains tax. Is it a perfect solution? No.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. POMEROY. I yield the gentleman an additional 30 seconds.

Mr. BLUMENAUER. But compared to the best that the Republicans could do for 12 years, it's night and day.

With all due respect, declaring one of my heroes, Teddy Roosevelt, who brought about the inheritance tax, as being un-American is an insult to the Republican Party who knows that the vast wealth in this country, you don't get to be a billionaire on a W2. So a lot of this money was never even taxed once. Let's get a grip. Let's pass this bill and move on.

Mr. BRADY of Texas. I yield myself, Mr. Speaker, as much time as I may consume.

I know Washington takes great delight in reading from comments from the very wealthy who, by the way, usually find loopholes by accountants and have whole planning teams to make sure they don't pay these taxes. But I like to listen to those who are actually struggling with these death taxes, our small businesses, our family farms and our local manufacturers who have got a lot of challenges.

I have a letter from the National Federation of Independent Business which has weighed in on almost every key issue dealing with the impact on small businesses and independent businesses. Like me, they do appreciate the work that Mr. POMEROY has done on this issue. But just quoting from their letter: “While well intentioned, H.R. 4154 is an incomplete solution. A \$3.5 million exemption per person and a 45 percent rate do not provide adequate protection for many small businesses. In addition, the \$3.5 million exemption is not indexed for inflation, meaning that protection from the estate tax will erode each year.”

Our manufacturing groups, for example, National Association of Manufacturers, in a letter they wrote, again, yesterday, say: “The NAM, the National Association of Manufacturers, the Nation's largest industrial trade association representing small and large manufacturers in every industrial sector and in all 50 States, urges you to oppose H.R. 4154,” the bill we have before us today.

“While NAM appreciates efforts to provide certainty by making estate tax rates permanent, we do not view a 45 percent rate or an exemption that is not indexed to inflation as efforts that will achieve significant reform.”

And finally, the American Farm Bureau Federation, again, family farmers all throughout this country are involved, again, in trying to help them keep those family farms, pass them down to the next generation, say that the current estate tax exemption is \$3.5 million per person and the top tax rate is 45 percent under this bill. This exemption level is inadequate to protect our Nation's farms and ranches from estate taxes and causes financial burden of complicated and expensive estate tax planning.

It is clear while we may claim on this floor that this is a bill great for family farms and great for small businesses, and only taxing the wealthy, our family farms, our small businesses, our local manufacturing companies say it does not.

NATIONAL FEDERATION OF  
INDEPENDENT BUSINESS,  
Washington, DC, December 2, 2009.

DEAR REPRESENTATIVE: On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I am writing to share our views about H.R. 4154, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009.

With the current estate tax law expiring after 2010, H.R. 4154 provides certainty to help small business owners plan for the tax and maintains stepped-up basis. While well-intentioned, H.R. 4154 is an incomplete solution. A \$3.5 million exemption per person and a 45 percent rate do not provide adequate protection for many small businesses. In addition, the \$3.5 million exemption is not indexed for inflation, meaning that protection from the estate tax will erode each year.

NFIB has always supported full repeal of the estate tax as the one solution that will protect all small businesses from this tax. Short of that, NFIB has supported H.R. 3905, a bipartisan compromise bill which provides an exemption level of \$5 million per person and a rate of 35 percent. Much of the cost of the estate tax occurs before the tax is levied because the threat of the tax forces families to pay for expensive estate planning to ensure their business stays with the family. Such costs are a drain on the finances of many already struggling small businesses, and relief along the lines of H.R. 3905 would provide additional protection for many small businesses.

NFIB is encouraged that the House of Representatives is acting on this important small business issue by providing long-term estate planning certainty. We look forward to working with Congress to improve the legislation so that it meets the needs of America's small businesses.

Sincerely,

SUSAN ECKERLY,  
Senior Vice President, Public Policy.

#### MANUFACTURING MAKES

AMERICA STRONG,

Washington, DC, December 2, 2009.

HOUSE OF REPRESENTATIVES,  
Washington, DC.

DEAR REPRESENTATIVE: The National Association of Manufacturers (NAM), the nation's largest industrial trade association representing small and large manufacturers in every industrial sector and in all 50 states, urges you to oppose H.R. 4154, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009.

The NAM has consistently supported efforts to either repeal or significantly reform the estate tax. For small and medium-sized manufacturers, owners and families, the estate tax is more than a one-time tax. In a recent survey of the NAM's small and medium-sized manufacturers, respondents said that, on average, they spend \$94,000 annually on fees and estate-planning costs in preparation for their estate tax bill. This is money that could have been used to grow businesses and add jobs.

Legislation enacted in 2001 gradually phases out the estate tax and ultimately repeals the tax in 2010. However, without congressional action to make the repeal permanent, the tax will revert in 2011 to the extremely high pre-2001 rates.

H.R. 4154 would make permanent the 2009 rate of 45 percent and the \$3.5 million exemption. While the NAM appreciates efforts to provide certainty by making the estate tax rates permanent, we do not view a 45 percent rate or an exemption that is not indexed to inflation as efforts that will achieve significant reform.

We urge members of the House of Representatives to oppose H.R. 4154 and bring up legislation that will provide significant relief for small manufacturers facing this onerous tax.

The NAM's Key Vote Advisory Committee has indicated that votes on H.R. 4154, including potential procedural motions, may be considered for designation as Key Manufac-

turing Votes in the 111th Congress. Thank you for your consideration.

Sincerely,

JAY TIMMONS,  
Executive Vice President.

AMERICAN FARM BUREAU FEDERATION,  
Washington, DC, December 3, 2009.

To all MEMBERS,  
House of Representatives,  
Washington, DC.

DEAR REPRESENTATIVE: Individuals, family partnerships or family corporations own 98 percent of our nation's 2 million farms and ranches and produce about 82 percent of U.S. agricultural products. Estate taxes threaten family-owned farm and ranches and the livelihoods of families who make their living in production agriculture. Farm Bureau believes that estate taxes should be repealed.

Estate taxes are especially harmful to farmers and ranchers because their businesses are capital-intensive with a high concentration of assets tied up in land, buildings and equipment. Surviving family members are often forced to sell much needed land, buildings or equipment in order to pay the tax. When farms or ranches are downsized or disappear, farm families lose their incomes and rural communities and businesses suffer. Farmland close to urban centers often converts to development when estate taxes force farm families to sell off land to pay taxes.

The current estate tax exemption is \$3.5 million per person and the top tax rate is 45 percent. This exemption level is inadequate to protect our nation's farms and ranches from estate taxes and causes the financial burden of complicated and expensive estate tax planning.

The House is set to consider H.R. 4154, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009, introduced by Rep. Earl Pomeroy, (D-N.D.). While Farm Bureau acknowledges the need for certainty in estate tax law and the importance of maintaining the stepped-up basis, we cannot support a permanent \$3.5 million per person exemption or a 45 percent top rate. In addition the bill fails to index the exemption for inflation. Farm Bureau neither supports nor opposes passage of H.R. 4154, but realizes that we must send a bill to the Senate in order to improve the difficult and uncertain situation many of our farm families are facing because of the estate tax law.

Until estate taxes can be repealed, Farm Bureau urges Congress to continue to work for meaningful estate tax reform by enacting an estate tax exemption of \$10 million indexed for inflation, continuing the stepped-up basis and removing the limits on the amount of farm land that can be valued for farm use rather than at development value.

Sincerely,

BOB STALLMAN,  
President.

I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I would reference the earlier notation in the Farm Bureau that carry-over basis establishing this capital gains exposure falls particularly hard on family farms and ranchers.

With that, I yield my friend and colleague, SHELLEY BERKLEY from Las Vegas, 2 minutes.

Ms. BERKLEY. Mr. Speaker, I thank the gentleman from North Dakota for yielding.

The bill we are considering this afternoon is not my chosen option. While I will vote for this bill, I don't think it goes far enough, nor is it a truly permanent solution.

Yesterday at the Rules Committee, I offered an amendment that would have raised the estate tax exemption and reduced the rate, creating a sensible, stable and, most importantly, a permanent framework to help families and businesses effectively plan for the burden of the estate tax.

This position is favored by a wide coalition of business and farm groups; and unlike the bill on the floor today, it is indexed for inflation. This is important, because without indexing, the estate tax will, like the alternative minimum tax, grow over time to cover more and more estates, eventually affecting many middle class Americans.

Philosophically, I don't think there should be an estate tax. There are few things in this world that you can do to avoid paying taxes. I think dying should be one of those things.

I introduced bipartisan legislation to alleviate the burden the estate tax creates for farms, businesses, and individuals. The legislation would have responsibly phased up the exemption to \$5 million, \$10 million for couples, and lowered the rate to 35 percent over the next 10 years to reduce the burden on those estates that still have an estate tax liability.

Given the current economic situation, even one job lost to the estate tax is too much. We need to encourage stability in every way possible. While the bill before us, in my opinion, is not a permanent solution, it is far better than a short-term patch. It ensures stability in the Tax Code and allows for estate planning. I believe it will free up resources currently used to plan for the estate tax.

I will vote for this bill, and I urge my colleagues to join me and do likewise.

Mr. BRADY of Texas. Yielding myself 15 seconds, I would like to submit for the RECORD a list of 49 organizations from family farmers to small businesses to local funeral parlors in support of Congresswoman BERKLEY's bill and amendment.

#### FAMILY BUSINESS ESTATE TAX COALITION

American Farm Bureau Federation; American Foundry Society; American Hotel & Lodging Association; American International Automobile Dealers Association; American Rental Association; American Wholesale Marketers Association; Associated Builders and Contractors; AMT—Association for Manufacturing Technology; Association of Equipment Manufacturers; Comporium Group/Rock Hill Telephone Company; Financial Executive International's Committee on Private Company Policy.

Food Marketing Institute; Heating, Airconditioning & Refrigeration Distributors International; Independent Community Bankers of America; Independent Insurance Agents & Brokers of America; International Franchise Association; Marine Retailers Association of America; Mason Contractors Association of America; Mortgage Bankers Association; National Association of Convenience Stores; National Association of Manufacturers; National Association of Wholesaler-Distributors.

National Automobile Dealers Association; National Beer Wholesalers Association; National Cattlemen's Beef Association; National Electrical Contractors Association;

National Federation of Independent Business; National Funeral Directors Association; National Grocers Association; National Lumber and Building Material Dealers Association; National Newspaper Association; National Restaurant Association; National Roofing Contractors Association.

National Small Business Association; National Telecommunications Cooperative Association; National Utility Contractors Association; Newspaper Association of America; North American Die Casting Association; Plumbing-Heating-Cooling Contractors—National Association; Policy and Taxation Group; Printing Industries of America; S Corporation Association; Society of American Florists; The Associated General Contractors of America; The Bowling Proprietors' Association of America.

At this time, I would like to yield 2 minutes to one of the outstanding members of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSKAM).

Mr. ROSKAM. I thank the gentleman for yielding.

I think the gentlelady made an excellent point highlighting the weakness of this bill. The gentlelady from Nevada pointed out that this is not indexed for inflation. Let's make no mistake: a characterization that someone else is kicking the can down the lane, this bill, in fact, kicks the can down the lane because if it's not indexed for inflation, then at the very least we are going to be knocking up against the alternative minimum tax problem that has so plagued this Congress over the past couple of years.

I heard, Mr. Speaker, a couple of minutes ago one of the folks on the other side of the aisle who is sort of characterizing things as folks weren't paying taxes. I want to put that into a context. Look, here is a little bit of a list. If you're running around the United States of America and doing any kind of economic activity, these are the taxes you're going to run into. You're going to be paying capital gains, you're going to be paying Federal income taxes, or unemployment taxes, or motor fuel taxes, or gift taxes, Medicare taxes, payroll taxes, property taxes, real estate transfer taxes, telecommunications taxes, sales taxes, self-employment taxes, Social Security taxes, State income taxes, tolls, bridges. You name it, you're going to be loaded up with taxes.

And so here is an opportunity for us to say, let's have a clear, good shot. As Representative CAMP said a couple of minutes ago, death should not be a taxable event. Let's not act as if this accumulation over a period of years has not been taxed along the way.

So I think the National Association of Manufacturers accurately pointed out that it's not the tax burden alone that's the problem here. It's not simply the fact that it's not indexed for inflation. But the cumulative effect is, in fact, the problem because according to the NAM, \$94,000 a year is spent on tax preparation and estate planning. I say let's lift the tax burden. Let's recognize the cumulative nature of taxes that people are paying. Let's not, with

a straight face, try and say people aren't paying taxes, and let's vote against this bill.

Mr. POMEROY. I yield my friend and Ways and Means colleague from North Carolina (Mr. ETHERIDGE) 2 minutes.

(Mr. ETHERIDGE asked and was given permission to revise and extend his remarks.)

Mr. ETHERIDGE. I thank the gentleman for yielding.

And since I have been in this Congress, I have worked to extend the benefits with estate planning and raise exemptions for the last 12 years. The estate tax was never meant to affect the vast majority of Americans. Under H.R. 4154, only 25 of every 10,000 estates would be subject to estate tax.

By extending current law, this bill strikes a balance. It provides certainty for estate planning and prevents tens of thousand of estates from being subject to taxation while also being fiscally responsible.

Critically, this bill protects our small businesses and farmers. In my district in North Carolina, there are plenty of farmers that are "land rich and cash poor" that may be affected by the reach of the estate tax because their land and equipment are worth quite a bit, but their business may be barely getting by.

Many small businesses that form the backbone of our economy are the engine of job creation, and they face the same dilemma. Rather than worrying about the estate tax, these businesses need to focus on the growth and expansion that can improve our economy. This legislation will allow them to do just that.

Only 100 small businesses and farm estates would owe any estate tax in 2010 under these rules, according to the numbers I get.

Now, as a former small businesses owner, I also know that that provides certainty that is crucial for business planning. This is equally true for individuals who need to plan for the future of themselves, their children and their grandchildren. We should encourage the dreams of Americans who want to build wealth that they can leave to their children and grandchildren, but also it needs to be fair.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. POMEROY. I yield the gentleman 30 additional seconds.

Mr. ETHERIDGE. America is the land of equality of opportunity; and by making sure that 99.8 percent of estates are exempt from estate tax while encouraging that the fewer than 8,000 pay, this bill provides and preserves opportunity for all.

I encourage my colleagues to vote for it.

Mr. BRADY of Texas. The two questions we ought to ask ourselves when we consider this bill, besides the principle underneath it, which is should family farms and small businesses work their whole life, build up a nest egg and have Uncle Sam swoop in when

they die and take up nearly half of it themselves, is this supported by the people whom you say it will help, and will this bill or can this bill become law?

As to the first case, it is not supported by the organizations that have worked the longest and the hardest on the death tax. And we have, again, 49 organizations who support a bipartisan compromise who unfortunately cannot support this bill, small businesses, family farms, local newspapers, local marketing groups, equipment manufacturers, local builders and auto dealers. We have local convenience stores and beer wholesalers, our cattlemen, just the people who make up the fabric of our local economies believe this bill will not help them and will not help them enough.

□ 1300

But the other thought is, will this bill become law? And the answer, unfortunately, is no. H.R. 4154 is dead on arrival in the Senate. Even if it squeaks through the House with whatever arm twisting must be done, it will be dead on arrival in the Senate. Earlier this year the Senate voted on a bipartisan basis for a far more generous estate tax relief package. The Lincoln-Kyl amendment to the Senate's budget resolution, which mirrors the Berkley-Brady amendment that was not allowed to be offered today, provides a considerably higher exemption and a more reasonable 35 percent rate.

It's very unlikely that the Senate is going to take a break from health care and other issues to pass a bill that they have serious concerns about, and especially because they have serious concerns as well about this PAYGO sham language that is attached. Also, recent press reports make clear that key Senators, even Democratic Senators, believe that this bill, H.R. 4154, is insufficient.

According to a December 22 article in the BNA, it's quoted that the House plan to make permanent the 2009 estate tax rate exemption levels falls far short of what is needed in the long run and quotes key Senators in that Chamber. So, I think our goal ought to be helping the people we say we're trying to help: family farmers and small businesses. And we ought to be pushing a bill forward that can be accepted by the Senate, make it to the President's desk, and provide that certainty that helps these people.

I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I am pleased to yield 1 minute to our distinguished majority leader, Mr. HOYER.

Mr. HOYER. I thank my friend, Mr. POMEROY, the representative of the Ways and Means Committee, for yielding, and I want to thank him for his efforts in pursuing this bill and introducing this bill and effecting the policy that currently exists in this country of a generous but fair provision for exemptions on estates. That exemption, as has been, I'm sure, debated today,

provides for \$3.5 million for each spouse, or \$7 million a family, for an exemption under the estate tax. However, what the Republican policy did was create a situation where there is no certainty, no ability to plan, and no confidence of what the tax policy will be in the coming years.

I, therefore, rise to support this bill which permanently extends estate tax relief to American families and which strikes a fair balance between what we owe to families, farmers, and small businesses, and what we owe to our country's fiscal future. This bill simply continues present law at current rates and exemptions. But it does not abolish the estate tax altogether, which I think would be a mistake. In fact, Teddy Roosevelt thought it would be a mistake. Teddy Roosevelt thought it would be a mistake because he did not want to see the constant accretion in just a few very wealthy people in America of the wealth of this country.

Abolishing the estate tax would add billions and billions to our deficit, as will happen next year if we do not pass this bill. And while a small number of wealthy families would benefit, the growth of our economy as a whole would suffer. So would vital programs on which millions of Americans rely. The estate tax also sets a limit on the concentration of inherited wealth from generation to generation. That's what Teddy Roosevelt, Republican President the early part of last century, thought was appropriate in American policy, which, at a time when this country's middle class is truly struggling, would make inequality even starker and more damaging to our country's social fabric.

That is why advocates of a dynamic economy have supported an estate tax for generations. When first proposing an estate tax, Theodore Roosevelt said, "The man of great wealth owes a particular obligation to the state because he derives special advantages from the mere existence of government."

And Bill Gates, along with Warren Buffett, one of the two wealthiest people in America, recently argued that the estate tax, "puts a brake on the concentration of wealth and power, generates substantial revenue from those most able to pay, and encourages billions of dollars in charitable giving each year. The estate tax is not only fair," Bill Gates said, "but an essential component of our Nation's economic dynamism." That's Bill Gates, who will, I think, be perceived by the American public as having probably the possibility of one of the largest estates.

Finally, it's important that this bill is permanent, and not a temporary fix. That guarantees families, farmers, and small businesses the certainty they need to plan ahead rationally. President Bush's estate tax policy, by contrast, gave the country anything but certainty. It phased out the estate tax, repealed it entirely for 2010, and then brought it back, at 2001 levels, for 2011. In other words, 3.5 today, zero tomorrow,

and 1 in 2011. No accountant or estate planner is going to look you in the eye and say, Well, based upon that policy, I can give you some rational advice.

That was truly an irresponsible tax and fiscal policy brought to us, very frankly, by the minority party when it was in power. It made it impossible for families to plan with confidence for the future. It also hid the policy's true cost to our national budget. This bill can change that. It is in keeping with President Obama's pledge of a new honesty in budgeting.

I also want to point out that passing this bill is also an important step toward fiscal responsibility because attached to it is the House's support for statutory PAYGO, as it's affectionately referred to by some, me included. Now, let me say something about statutory PAYGO. My friends on the Republican side of the aisle are not for it. They're not for it because they wanted to make deep revenue cuts and didn't want to pay for them. They wanted my children to pay for them and my grandchildren to pay for them. And very frankly, that's who's going to pay for them. Those of us of my age are not going to pay for them because we incurred real debt by not paying for what we buy, and created extraordinary deficits over the last 8 years of the Bush administration.

As we know, the principle of paying for what we buy was central to turning record deficits of 1993, of 1992, of 1991, of 1990, and all of the years of the 1980s, turning record deficits into record surpluses. It was statutory PAYGO that allowed us to do that, along, obviously, with the extraordinary growth in the economy that occurred under an economic program put in place in 1993, for which none of my colleagues on the Republican side of the aisle voted. It can be an important step in our return to fiscal health today.

By passing this bill, we can also strengthen our commitment to pay for all new policies that reduce revenues or expand entitlements. In fact, I wish that this extension of estate tax relief were also paid for. It is not, of course. Why is it not paid for? Because we can't pay for it at a time when we are at great economic risk. We can't depress the economy. We need to stimulate our economy. But if we put in place PAYGO, we will give additional confidence to those who are prepared to invest their capital that we will continue to have sound fiscal policies.

It's unlikely that we will have the votes to pay for this extension of policies with bipartisan support. I choose to support the strongest version of PAYGO possible. That is the PAYGO provision in this bill. So, on the one hand, we bring in this bill estate planning rationality, substance, and confidence. And on the other hand, we adopt once again in this House the premise of statutory PAYGO, which got us to 4 years of surplus during the Clinton administration, the only 4

years of surplus in the lifetime of anybody in this Chamber.

I hope that the Senate will join the House in taking this essential first step out of America's deep fiscal hole. My friend, Mr. BRADY, thinks that they will not. Perhaps he is correct. If he is correct, it will be unfortunate. My friend, I know, has been a proponent for the years he's been here, and some others have been, of going to zero, no estate tax. Very frankly, because of that position, we have not been able to reach compromise and, therefore, we find ourselves in this untenable position.

I urge all of my colleagues to support this bill, which makes a fair estate tax permanent, makes estate planning more reliable, and makes our commitment to fiscal discipline clear and unequivocal.

Mr. BRADY of Texas. I yield myself as much time as I may consume.

We have short memories around here. While I know it's sort of popular to blame President Bush for everything from acid reflux to Tiger Woods' car accident, the truth of the matter is we wouldn't be here today if President Clinton had not vetoed the full permanent repeal of the death tax once and for all for America. A Republican Congress sent him that bill saying the only peace of mind we can give to family farmers and small businesses is to put this death tax to death. But because of his actions and irresponsible veto, today we see a high tax rate and low exemptions and real damage upon America's family farms and small businesses.

We talk about fiscal responsibility. I just heard some more rhetoric about that. Now, let me point out that while Republicans, unfortunately, in responding to the terrorist attacks of 9/11 and creating a Homeland Security Department, I believe, while well-intentioned in defense of this country, also spent too much money. And you can tell from these red bars how once that mistake was made, the deficit, year after year, went down. In the first year Democrats had control of Congress the deficit went from 162 to 459. It tripled in 1 year that

pled the deficit. This year it is almost nine times higher than when Republicans left Congress. So, when I hear a lecture on fiscal responsibility, after a \$1.4 trillion deficit, a quarter of a trillion dollar unpaid bill 2 weeks ago for the doctor fix, an unprecedented spending spree, bailouts, and PAYGO rules that have less credibility than all the fake stimulus jobs we hear about, please, no lectures. And when you talk about statutory PAYGO, I'll remind Members how many violations of PAYGO have occurred. Two dozen of them in the last couple of years by this Congress, supposedly fiscally responsible.

And you know the way they got around it? In some cases they used the same PAYGO 25 different times. That's like mortgaging your house 25 times to

the bank as collateral. They used some PAYGO 10 different times. In fact, one time, to try to look like they balanced the bill, this Congress, on this floor, with this leadership, decreed that there will be no terrorist attacks for the next 5 years so that this bill can look like it was paid for.

So, please, no lectures on fiscal responsibility from a Congress and a White House that is ruining this country, driving us so deep into debt I don't know how our grandchildren will ever get out of it.

I think the main point today that I will refute as well is that this is the only option. The truth of the matter is that there is a bipartisan bill that has support of some 39 or so Members of this House, supported by so many of the groups, family farms, small businesses, local nurseries, home builders, and retail shops, that does have support in the House and in the Senate. That's the compromise that should be on the floor today. That's the way we make sure we help our family small businesses.

And let me tell you, too, whenever Washington says we're only going after a few of the wealthy, grab your pocketbooks because we've seen this run before. And the alternative minimum tax was supposed to tax 100 or so of the wealthiest Americans, as we just heard. Today that tax can grab almost 24 million Americans. We're going to see every year more and more family farms, more and more small businesses trapped, damaged, destroyed by this death tax unless this bill is voted down. And we have other options that really can help.

I reserve the balance of my time.

□ 1315

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me begin by congratulating my friend, Mr. BRADY. He has been entrusted to manage time on the bill. He's done a great job of it. For many years I've had a running debate with Mr. Hulshof who's no longer with us as he did not run for reelection last year. I think Mr. BRADY has more than picked up the banner from Mr. Hulshof, and I commend him for a good discussion.

I do believe that he begins with a curious point. He attacks the Democrats for budget deficits while advocating a bill that would cost twice as much as the bill on the floor. Repeal of the estate tax would lose roughly half a trillion dollars over the next decade. That is well over double the cost of the bill before the House. Another thing about that bill that you did not hear one speck of discussion on from the Republicans in the debate today is this capital gains tax issue. Let me briefly recount it.

Right now, when someone inherits property under an estate, if they go on to sell it, the capital gains is on the value of the asset at the time it was inherited. If we don't act, the law that is

on the books brings a different formula—it's called carryover basis. When you inherit property and go to sell it, you pay capital gains on everything over the value of the initial acquisition—the price grandma paid when she got the farm or what have you. The Farm Bureau has called this insidious relative to its impact on farms and small businesses. We make that problem go away, and it needs to go away.

I don't think it's right, responding to another point made by my friend, Mr. BRADY, to blame Mr. Clinton for the estate tax. President Bush had 8 years of governing after Mr. Clinton. Six of those years Republicans controlled this Chamber. If they needed to do something, they certainly had time to do it. But what they left us is a mess that now needs to be attended to; because to have the estate tax repealed next year, have a capital gains tax come in instead of the estate tax, a capital gains tax that will hit 71,000 taxpayers. While the 6,000 get relief on the estate tax, 71,000 have new capital gains exposure and then have it all go back to the 2002 levels in the year after that; \$1 million, \$2 million joint, 55 percent rate. It makes no sense.

The bill on the floor achieves almost unanimous relief from the estate tax while making the rules very clear: 99.25 percent get excluded from the estate tax. Those estates, joint estates, over \$7 million would continue to have the exposure—although they would obviously have the wherewithal to apply to that. The rate 45 percent only applies to assets over the \$7 million. So in a taxable estate there is zero tax on the first \$7 million, 45 percent over that. On average, that means you have got about an 18 percent rate, not nearly half as had been described by the other side.

In closing, I have a quote from a Washington Post editorial talking about this situation in today's paper. It says, "In one of those fiscal time bombs left from the Bush administration, the estate tax, having gradually dwindled, is set to be eliminated entirely next year—only to spring back to life, full-force, in 2011. Unless something is done, 2010 will be the year to throw Mama from the train, tax-free. This would be terrible policy, not to mention unkind to Mama."

So I believe that we need to act. The bill before us is a reasonable resolution of this issue. I urge its adoption.

I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself the balance of my time.

I would say while I disagree strongly with some of those assertions, I do very much appreciate the work that Mr. POMEROY has done on this bill. It is an issue that concerns so many of us. I am hopeful we can still come together on a bipartisan compromise that can pass this House, and for many of us who have as our goal full and permanent repeal of the death tax, I hope someday to work with him on that as well.

Mr. HOLT. Mr. Speaker, I rise today in support of H.R. 4152, the Permanent Estate Tax

Relief for Families, Farmers, and Small Businesses Act of 2009. This is responsible legislation that would provide permanent tax relief to middle-class families and family-owned businesses, while maintaining the estate tax for only the 7,600 wealthiest individuals nationwide, according to the Committee on Ways and Means.

H.R. 4152, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009 permanently would set the estate tax at the 2009 level. This would allow families and small businesses to have certainty about the rate of taxation on their estates and plan accordingly.

Currently the estate tax exemption is set at \$3.5 million for individuals and \$7 million for couples and with a maximum tax rate of 45 percent. Unless the House and the Senate take action, the estate tax is scheduled to enter 1 year of full repeal in 2010 followed by a return of the estate tax in 2011 with a drastically reduced exemption level and a much higher maximum rate of taxation. If we allow the estate tax to return to a \$1 million exemption at a tax rate of 55 percent, 30,000 more American small businesses, farms, and families will be subject to the estate tax in 2011. Given the high property values in New Jersey, allowing the estate tax to revert to a million dollar exemption would hit my constituents especially hard.

Additionally, the legislation we are considering today would require all new spending to be paid for and not increase the debt by instituting pay-as-you-go budgeting as law. I support pay-as-you-go rules because fiscal discipline must always be a hallmark of our government. In the 1990s with pay-as-you-go as the law, we turned the massive deficits of the 1980s into a record surplus under President Clinton. Pay-as-you-go is only one tool, but it is a strong one to return our Nation back to fiscal stability.

I urge my colleagues to support this legislation.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 4154, the "Permanent Estate Relief for Families, Farmers, and Small Businesses Act of 2009." This bill will extend permanently the 2009 estate tax rules, which are estimated to affect only 1 in 500 estates. By allowing the estate tax to expire next year, we will be depriving the Federal Government of critically needed funds to finance, among other things, economic stabilization programs. Moreover, at a time when many working Americans are losing their jobs and finding it difficult to make ends meet, particularly in southeast Michigan, it strikes me as wholly unconscionable that the Congress should approve a tax cut for the wealthiest of the country's citizens. Furthermore, while I am ever cognizant of the effect of Federal policy on small businesses, I would remind my colleagues that, according to the Tax Policy Center, only 100 small business and farm estates in the entire Nation would owe any estate tax in 2010 if the 2009 rules were extended, and virtually none of them would have to be sold to pay the tax.

Thus, in my view, the bluster about the purported effect of this bill on farms and small businesses is unfounded. As such, I urge my colleagues to vote in favor of this bill, as I will.

Mr. STARK. Mr. Speaker, I rise in opposition to the permanent extension of the 2009 estate tax. The American people have more pressing concerns. Our priority should be to



create jobs, enact health reform, and extend unemployment insurance and COBRA assistance, not provide gifts for the wealthiest 7,000 Americans.

I favor a 1-year extension of current law, and then we can consider the estate tax in the context of all of the expiring Bush tax provisions. This provision should not be given priority over helping those who can't find affordable health coverage or have lost their home or their job.

Now is not the right time for this legislation. Let's pass a 1-year extension and get back to the issues that are truly important to the American people—creating jobs and assisting struggling families. I urge a “no” vote.

Mr. VAN HOLLEN. Mr. Speaker, I rise in support of the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009.

If enacted into law, this legislation would permanently extend the estate tax at its current 2009 top rate of 45 percent and exemption level of \$3.5 million, \$7 million for joint filers. In so doing, H.R. 4154 will provide needed certainty for families engaged in estate planning while significantly reducing the total number of estates subject to the estate tax relative to current law. This measure is consistent with both President Obama's FY 2010 Budget, as well as Congress's FY 2010 Budget Resolution—and importantly, today's rule incorporates statutory PAYGO into the underlying initiative, which will go a long way towards restoring our Nation's long-term fiscal discipline.

I urge my colleagues' support.

Mr. BRALEY of Iowa. Mr. Speaker, today I stand in support of H.R. 4154, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009 because I understand the importance of protecting Iowa's farms and small businesses. This bill helps ensure that these businesses are not downsized as they are passed from one generation to the next.

While I am supportive of the estate tax exemption of \$3.5 million per person in the short term, I am frustrated that the bill does not adjust this amount for inflation. Earlier this week, I submitted an amendment to the Rules Committee to adjust the estate tax for inflation, but that amendment was not allowed to the House Floor. While the title of this bill indicates that it is a permanent fix, I worry that we will be right back in the same situation in a few years.

Do not let the estate tax go down the same path as the alternative minimum tax, AMT. The AMT was originally passed in 1969 as a measure to target 155 high-income households that were paying little or no income tax because of loopholes in the tax code at that time. However, because it was not adjusted for inflation, an increasing number of middle-class taxpayers have found themselves subject to this tax. Indexing the estate tax for inflation will help ensure that it does not have the unintended consequence of impacting middle-class families in the future.

As this bill continues through the congressional process, I urge my colleagues to adjust the estate tax for inflation so that it truly is a permanent fix.

Mr. TIAHRT. Mr. Speaker, throughout our history, Americans have worked vigorously to achieve great success despite extraordinary hardships. Farmers have tilled the earth, inventors have exercised their ingenuity, build-

ers have constructed, entrepreneurs have established businesses, and all made our nation even greater than the founding fathers envisioned. In the process of becoming successful, wealth is created. When a person successfully pursues a dream and wisely manages resources over a lifetime, the Federal Government should not punish those accomplishments by seizing a significant portion of what was intended to be passed along to family members upon death.

Due to burdensome death taxes, there are countless examples of families who have been forced to sell their business or purchase it back from the government. A business that has been in a family for generations can be lost overnight because of the death tax. And when a business leaves its family roots, there is a loss of pride in the fundamental traditions that helped make the business a success. This is not the legacy parents want to leave their children and grandchildren.

Growing up on a family farm, I understand the impending doom the death tax imposes. Instead of proudly teaching one's children and grandchildren how to work the land of their forefathers, farming families are instead focused on whether they can save enough to pay the death tax or literally, “lose the farm.”

I am pleased to have worked with my colleagues in the House of Representatives to eliminate this tax. I strongly supported the Economic Growth and Tax Relief Reconciliation Act of 2001, EGTRRA. Under EGTRRA, the death tax and generation-skipping transfer tax are scheduled to be repealed effective January 1, 2010. However, the death tax will come back in full force on January 1, 2011, unless Congress takes action to extend or permanently repeal the tax.

Mr. Speaker, we don't need a reform to the Death Tax, we need full repeal. Under this legislation, the 0 percent tax death tax rate in 2010 will be raised by 45 percent. This is not the direction we should be moving in.

In both the 107th and 108th Congresses, the House passed legislation making the repeal permanent, but the Senate did not. In the 109th Congress, the House passed H.R. 8 that would have permanently repealed the estate tax. On June 8, 2006, the Senate held a cloture vote on a motion to proceed to consider H.R. 8. However, the vote of 57–41 fell three votes short of the 60 needed to consider the bill.

Instead of fully repealing the Death Tax, this Democrat majority deems it necessary to still tax almost half of an individual's estate upon their death.

The legislation before us today will keep the estate tax at its 2009 level, meaning the government gets 45 percent of a deceased person's estate valued over \$3.5 million dollars instead of 0 percent as under the 2001 act.

Additionally, the \$3.5 million exemption is not indexed for inflation. Similar to the Alternative Minimum Tax, the Death Tax will gradually affect more and more families and businesses than originally intended.

I have been a strong supporter of permanently ending the death tax throughout my career and will vigorously oppose this tax increase in the President's budget and the underlying bill before the House today.

This is not the legacy parents want to leave their children and grandchildren. This is not the legacy that this Congress wants to leave to its constituents. I unequivocally urge my

colleagues to vote against this unjust tax scheme.

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise in opposition to H.R. 4154, the Permanent Estate Tax Relief of Families, Farmers, and Small Businesses. I am worried sick that we have misplaced our priorities as Congress when we are voting on legislation to permanently, not temporarily, extend a tax cut to the richest, top 1 percent, of all income earners when Congress has not passed a public works job program for the unemployed. We are sending 30,000 of America's finest young men and women off to war in Afghanistan at the estimated potential cost of \$20 billion per year. Congress must pass a public works job program.

This bill has not been considered through regular order. This bill has had zero hearings, there have been no subcommittee or full committee mark ups by the House Ways and Means Committee.

We currently have more than 15 million unemployed Americans. The national unemployment rate is more than 10 percent. In the State of Michigan, we have a reported rate of more than 15 percent, and in the city of Detroit, the unemployment rate is more than 28 percent. These are the reported rates. As Chairperson of the Congressional Black Caucus during the 110th Session of Congress, from 2007 to 2008, I pushed to get a public works program. I also worked to get an aggressive summer jobs program in 2008. Both to no avail.

It would not be difficult to get a public works program done immediately. Working from the template that was established with the Civilian Conservation Corps, CCC, during the Depression era, updated by the Comprehensive Employment Training Act, CETA, we could insert language in one of the remaining Appropriations bills for consideration. Not only to get such a bill authorized, but appropriated as well. This would help hundreds of thousands, if not millions, get the best stimulus package there is—a job. The American people are begging Congress to do something to help them with employment. Private industry cannot do it alone. Our states and our cities do not have the resources to employ our people. It is up to Congress to make that happen. The Federal Government is the employer of last resort.

The President, just this week, will send 30,000 additional troops to Afghanistan. This troop build-up, in America's second longest war, is estimated to cost half a million dollars per servicemember, and an estimated \$20 billion per year. These troops will be on the ground in Afghanistan in less than 3 weeks. Meanwhile, Congress will still have done nothing toward getting jobs for their parents, their siblings, or their neighbors through a public works jobs program.

I am proud of my vote in favor of the economic stimulus package, which has helped to delay our downward economic spiral. The abysmal unemployment rate, however, demands that Congress do more. An aggressive public works jobs program, with funding from the Federal Government going directly to cities and counties, providing jobs and training, focusing on infrastructure development and based on the successful Civilian Conservation Corps and Comprehensive Employment Training Acts, is what America wants and Americans need. Infrastructure investment has created more jobs, with fewer dollars, and with



less time than any other Recovery Act program. There are still 9,500 shovel-ready projects across the country that could get started in the next 120 days. An aggressive investment by Congress in a new Civilian Conservation Corps or Comprehensive Employment Training Act focused on infrastructure repair and improvement would create thousands of American manufacturing jobs, American construction jobs, American city and county government jobs, and American service sector jobs.

Why is the House of Representatives today pushing for a permanent extension at this time of this legislation, when the Ways and Means Committee asked for a temporary extension? Furthermore, the Senate has said that they will only consider a temporary extension—which, in these fiscally austere times, is certainly reasonable.

I am a supporter of our families, our farmers and our small businesses. I want our families, farmers, and small businesses to succeed. The timing for this permanent extension to the wealthiest 1 percent of all Americans, when we have more than 15 million Americans out of work, is wrong. I will continue to fight in Congress for a new, comprehensive public work jobs program that will get Americans, who want to work, back on the job.

Mr. BRADY of Texas. I yield back the remainder of my time.

Mr. POMEROY. I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 941, the previous question is ordered on the bill.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

#### MOTION TO RECOMMIT

Mr. HELLER. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HELLER. Yes, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Heller moves to recommit the bill H.R. 4154 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Death Tax Repeal Permanency Act of 2009”.

#### SEC. 2. ESTATE TAX REPEAL MADE PERMANENT.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act.

#### POINT OF ORDER

Mr. POMEROY. Mr. Speaker, I make a point of order under clause 10 of rule XXI. The motion increases the deficit for purposes of that rule.

The SPEAKER pro tempore. Does any Member wish to be heard on the point of order?

Mr. HELLER. Mr. Speaker, this point of order shows the blatant inconsis-

encies the majority has set up with its own rules. On one hand, clause 10 of rule XXI—known as the PAYGO rule—requires amendments, including those contained in motions to recommit like this one, to be budget neutral. On the other hand, clause 7 of rule XVI—known as the germaneness rule—constrains our ability to offer pay-fors by requiring that they be related to the underlying bill.

These two rules are problematic in today’s case because H.R. 4154 is drafted so narrowly that it is impossible to identify germane offsets. Thus, not surprisingly, the majority has stacked the rules of the House to try to make it impossible for the minority to offer its preferred approach. We saw that 2 weeks ago on the SGR fix and are witnessing it again today as the rules are being used to keep us from offering a full and permanent repeal of the death tax.

Ironically, the bill before us today, H.R. 4154, doesn’t even meet the House’s own PAYGO rules. That’s right. That is because the budget resolution allows the chairman of the Budget Committee to simply reset the baseline to accommodate a certain amount of death tax relief.

Mr. Speaker, you are being asked to rule on whether this motion to recommit complies with PAYGO, but the base bill itself is not PAYGO compliant. It would increase the deficit by more than \$230 billion. This begs the question, if it’s appropriate for the majority to consider estate tax relief under H.R. 4154 without offsets, in violation of the spirit of PAYGO, then why is it now inappropriate, or out of order, for the minority to provide even more tax relief under their amendment?

I request that you overrule the point of order and allow the House to debate our alternative, which is complete repeal of the death tax.

Thank you, Mr. Speaker, for the opportunity be heard on the point of order.

The SPEAKER pro tempore. The gentleman from North Dakota makes a point of order that the amendment proposed in the instructions included in the motion to recommit offered by the gentleman from Nevada violates clause 10 of rule XXI by proposing a change in revenues that would increase the deficit.

Pursuant to clause 10 of rule XXI, the Chair is authoritatively guided by estimates from the Committee on the Budget that the net effect of the provisions in the amendment affecting revenues would increase the deficit for a relevant period.

Accordingly, the point of order is sustained and the motion is not in order.

Mr. HELLER. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is, Shall the decision of the Chair stand as the judgment of the House?

#### MOTION TO TABLE

Mr. POMEROY. Mr. Speaker, I move to table the appeal of the ruling of the Chair.

The SPEAKER pro tempore. The question is on the motion to table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HELLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 234, nays 186, not voting 14, as follows:

[Roll No. 927]

YEAS—234

Abercrombie	Green, Al	Napolitano
Ackerman	Green, Gene	Neal (MA)
Adler (NJ)	Grijalva	Oberstar
Altmire	Gutierrez	Obey
Andrews	Hall (NY)	Olver
Arcuri	Halvorson	Ortiz
Baca	Hare	Owens
Baldwin	Harman	Pallone
Bean	Hastings (FL)	Pascarell
Becerra	Heinrich	Pastor (AZ)
Berkley	Herseth Sandlin	Payne
Berman	Higgins	Perlmuter
Berry	Hill	Perriello
Bishop (GA)	Himes	Peters
Bishop (NY)	Hinchey	Peterson
Blumenauer	Hinojosa	Pingree (ME)
Bocieri	Hirono	Polis (CO)
Boren	Hodes	Pomeroy
Boswell	Holden	Price (NC)
Boucher	Holt	Quigley
Boyd	Honda	Rahall
Brady (PA)	Hoyer	Rangel
Braley (IA)	Inslee	Reyes
Brown, Corrine	Israel	Richardson
Butterfield	Jackson (IL)	Rodriguez
Capps	Jackson-Lee	Ross
Cardoza	(TX)	Rothman (NJ)
Carnahan	Johnson (GA)	Roybal-Allard
Carney	Johnson, E. B.	Ruppersberger
Carson (IN)	Kanjorski	Rush
Castor (FL)	Kaptur	Ryan (OH)
Chandler	Kennedy	Salazar
Childers	Kildee	Sánchez, Linda
Chu	Kilpatrick (MI)	T.
Clarke	Kilroy	Sanchez, Loretta
Clay	Kind	Sarbanes
Cleaver	Klein (FL)	Schakowsky
Clyburn	Kosmas	Schauer
Cohen	Kucinich	Schiff
Connolly (VA)	Langevin	Schrader
Conyers	Larsen (WA)	Schwartz
Cooper	Larson (CT)	Scott (GA)
Costa	Lee (CA)	Scott (VA)
Costello	Levin	Serrano
Courtney	Lewis (GA)	Shea-Porter
Crowley	Lipinski	Sherman
Cuellar	Loeb sack	Shuler
Cummings	Lofgren, Zoe	Sires
Dahlkemper	Lowey	Skelton
Davis (AL)	Lujan	Slaughter
Davis (CA)	Lynch	Smith (WA)
Davis (IL)	Maffei	Snyder
Davis (TN)	Maloney	Speier
DeFazio	Markey (CO)	Spratt
DeGette	Markey (MA)	Stark
Delahunt	Marshall	Stupak
DeLauro	Massa	Sutton
Dicks	Matheson	Tanner
Dingell	Matsui	Teague
Doggett	McCarthy (NY)	Thompson (CA)
Donnelly (IN)	McCollum	Thompson (MS)
Doyle	McDermott	Tierney
Driehaus	McMahon	Titus
Edwards (MD)	McNerney	Tonko
Ellison	Meek (FL)	Towns
Engel	Meeks (NY)	Tsongas
Eshoo	Michaud	Van Hollen
Etheridge	Miller (NC)	Velázquez
Farr	Miller, George	Visclosky
Fattah	Mollohan	Walz
Filner	Moore (KS)	Wasserman
Foster	Moore (WI)	Schultz
Frank (MA)	Murphy (CT)	Waters
Fudge	Murphy (NY)	Watson
Garamendi	Murphy, Patrick	Watt
Gordon (TN)	Murtha	Waxman
Grayson	Nadler (NY)	Weiner

Welch  
WexlerWilson (OH)  
WoolseyWu  
Yarmuth

## NAYS—186

Aderholt  
Akin  
Alexander  
Austria  
Bachmann  
Bachus  
Barrett (SC)  
Bartlett  
Barton (TX)  
Biggart  
Bilbray  
Bilirakis  
Blackburn  
Blunt  
Boehner  
Bonner  
Boozman  
Boustany  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor  
Cao  
Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dreier  
Duncan  
Ehlers  
Ellsworth  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxo  
Franks (AZ)  
Frelinghuysen  
Gallegly

Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Griffith  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hoekstra  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Kline (MN)  
Kratovil  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
LoBiondo  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCaul  
McClintock  
McCotter  
McHenry  
McIntyre  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick

Mitchell  
Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Nye  
Olson  
Paul  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schmidt  
Sensenbrenner  
Sessions  
Sestak  
Shadegg  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Space  
Stearns  
Sullivan  
Taylor  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (FL)

## NOT VOTING—14

Baird  
Barrow  
Bishop (UT)  
Bono Mack  
Capuano

Edwards (TX)  
Gonzalez  
Linder  
Lucas  
McGovern

Melancon  
Moran (VA)  
Schock  
Young (AK)

□ 1351

Messrs. KINGSTON, MINNICK, MCINTYRE, and BLUNT changed their vote from “yea” to nay.”

Messrs. HOLT, McDERMOTT, and PERLMUTTER changed their vote from “nay” to yea.”

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## MOTION TO RECOMMIT

Mr. HELLER. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HELLER. I am, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Heller moves to recommit the bill H.R. 4154 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

## SECTION 1. SHORT TITLE.

This Act may be cited as the “Death Tax Repeal Extension Act of 2009”.

## SEC. 2. EGTRRA SUNSET ON ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAX PROVISIONS DELAYED 1 YEAR.

In the case of title V of the Economic Growth and Tax Relief Reconciliation Act of 2001, section 901 of such Act shall be applied by substituting “December 31, 2011” for “December 31, 2010” both places it appears in paragraphs (1) and (2) of subsection (a) of such section.

The SPEAKER pro tempore. The gentleman from Nevada is recognized for 5 minutes.

Mr. HELLER. H.R. 4154 would be better called the Permanent Estate Tax Increase for Families, Farmers, and Small Businesses Act. My second motion to recommit still addresses elimination of the death tax. As the Chair has just ruled, the sensible alternative, full permanent repeal of the death tax, is not allowable under the House majority's rules. Therefore, this second motion to recommit is drafted to meet the arcane, pro-tax increase PAYGO rules.

This motion continues the full elimination of the death tax for 2010, as currently scheduled and promised to the American people, and then extends that full elimination 1 additional year to 2011. Business or farm income was taxed when it was created, saved, invested, and spent. These assets were taxed annually with property taxes. They don't need to be taxed yet again upon death. While 2 years is shorter than many of us in the House would prefer, it's the only alternative left.

Colleagues, the flaws with H.R. 4154 are numerous, but in defense of their misguided bill the majority cries that certainty trumps the punitive 45 percent rate. But the Federal Government shouldn't be entitled to half or even one-third of your assets when you die. Make no mistake: the purpose of the inheritance tax is to erase all of an individual's net worth within three generations. Let me repeat that: the purpose of the inheritance tax is to erase all of an individual's net worth within three generations.

Enshrining a 45 percent punitive tax rate is bad policy, and the only thing worse than bad policy is permanent bad policy. I am sure the American people will be upset with the certainty of zero. Today the majority is working hard to bring new vigor to the old adage “The only things in life that are certain are death and taxes.”

Let's remember that the unemployment rate is still high: 10 percent nationwide and more than 13 percent in my home State of Nevada. Recent esti-

mates show that the full repeal of the tax would create 1.5 million jobs. Again, that's jobs created. Who knows how many jobs will be saved by eliminating the death tax.

Eliminating the death tax will also have several other positive effects on the economy. One recent study showed that eliminating the death tax will increase small business capital by over \$1.6 trillion; eliminating the death tax will increase the probability of hiring by 8.6 percent; eliminating the death tax will increase payrolls by 2.6 percent; eliminating the death tax will expand investment by 3 percent; eliminating the death tax will create 1.5 million additional small business jobs; and eliminating the death tax will reduce the current jobless rate by almost 1 percent.

The American people know that the death tax punishes hard work by discouraging savings and investing, undermines job creation, and frankly contradicts the central promise of American life. They know the death tax is a jobs destroyer.

Colleagues, our Founding Fathers worked to ensure the rights of life, liberty and the pursuit of happiness. In addition, they fought, spurred largely by unfair taxation, to secure their rights to private property and the efforts of their work. They wanted a nation where one could work, think, produce, create, invent and prosper. This made our Nation different than all others at the time which created the tremendous engine of the American economy. What would they say about a government confiscating 45 percent of property earned over a lifetime?

Of the 56 signers of the Declaration of Independence, 18 were merchants or businessmen and 14 were farmers. Many lost their lives or family members, and at least 11 signers had their homes and property destroyed. In committing their “lives, fortunes, and sacred honor” as the Declaration of Independence reads, they sacrificed to ensure their heirs could keep what they earned. What would those who sacrificed so much say about a permanent 45 percent rate?

Congress made a promise to fully eliminate the death tax. The American people are sick and tired of broken promises from their government. Congress should keep this promise to the American people and do what it committed to do 8 years ago: allow the estate tax to expire in 2010 and extend that expiration to 2011.

Death should not be a taxable event. Support this motion and keep the death tax buried.

Mr. Speaker, I yield back the balance of my time.

Mr. POMEROY. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. The gentleman from North Dakota is recognized for 5 minutes.

□ 1400

Mr. POMEROY. I commence my comments by offering to yield to the gentleman if he would like to discuss the

capital gains tax implications of the motion to recommit.

Mr. HELLER. Mr. Speaker, I would be happy to respond. If the gentleman is asking to refer this piece of legislation back to Ways and Means and the Budget Committee, I would be happy to do so so that we can discuss those issues.

Mr. POMEROY. Reclaiming my time, that wasn't much of an answer, so let me make it a little more clear.

The bill would impose a new capital gains tax obligation. Six thousand people would get estate tax relief if full repeal goes into effect; 71,000 have a new capital gains tax laid upon them because carryover basis is established instead of the step-up basis.

In other words, if you inherit Grandma's farm, if Grandma paid \$100 an acre for it and it's now worth \$2,000 an acre, and you go to sell it, you have capital gains on all appreciated value over \$100. That's not how the law works now. How the law works now, if you have property worth \$2,000 an acre, that's your basis. There's no capital gains if you would sell it for \$2,000 an acre. The Farm Bureau has said this falls particularly insidiously on farms and small businesses, the very people they claim to be helping.

The motion to recommit, unfortunately, brings what has been a pretty respectable debate into, I think, some of the same overblown rhetoric that has plagued this issue in the past. The estate tax has changed 10 times in 11 years. Now, isn't it time we provide some certainty to the American people, not just more of the uncertainty that they offer?

What's more, it's not just certainty. We make the estate tax go away for 99.75 percent of the people in this country, 99.75 percent. But that's not good enough for them. They'll hold out for that last few tenths of a percent even if it means laying a capital gains tax obligation on 71,000 families to achieve that end.

Mr. Speaker, I yield the balance of my time to the gentleman from Florida (Mr. BOYD).

Mr. BOYD. I thank the gentleman from North Dakota for yielding. I also thank Chairman RANGEL for his work and also particularly the gentleman from North Dakota for his longtime dedication to resolving this issue and making it fair and permanent for families who are trying to plan estates.

Mr. Speaker, I rise today to speak against the motion to recommit and in favor of H.R. 4154, the Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009. The bill before us creates permanent financial guidelines for the future of families, farmers, and small businesses across this country.

Due to the policy enacted in 2001 under the Republican leadership, financial planning for estates since then has been at best unpredictable, a crapshoot for now a decade. The leadership at that time had a chance to fix this prob-

lem because we had surpluses as far as the eye could see. But they failed to act, and by doing so, they failed hundreds or thousands of families in this country, despite, as I said earlier, a picture of record surpluses as far as the eye could see. Instead, a policy was created that set an unsustainable rate for political gain.

Congress can do better. We can provide some permanency. The leadership of this body, my Democratic colleagues and I, have chosen to solidify the future of American families by making these 2009 levels permanent.

Let's be clear. The motion to recommit provides the same sort of uncertainty for folks who are planning for their estates as was done in 2001. What the motion to recommit does is extend the zero tax rate for 1 year to the end of 2011, and then in 2012 it comes back just like it was in 2001. How in the world are families supposed to plan when they're sitting down with their lawyers and their accountants near the end of life, how in the world are they supposed to plan with those kinds of laws in place? It is heartily irresponsible.

So I would plead with you to defeat this motion, pass H.R. 4154. Let's send it to the Senate hooked with PAYGO and see if we can't get this country back on track economically and provide some certainty and permanency for the folks as they plan for their estates.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

#### RECORDED VOTE

Mr. HELLER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage, if ordered, and the motion to suspend the rules on H.R. 3570.

The vote was taken by electronic device, and there were—ayes 187, noes 233, not voting 14, as follows:

[Roll No. 928]

AYES—187

Aderholt  
Adler (NJ)  
Akin  
Alexander  
Austria  
Bachmann  
Bachus  
Barrett (SC)  
Bartlett  
Barton (TX)  
Biggart  
Bilbray  
Bilirakis  
Blackburn  
Blunt  
Bonner  
Bono Mack

Boozman  
Boren  
Boustany  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Cantor

Cao  
Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Deal (GA)  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.

Dreier  
Duncan  
Ehlers  
Ellsworth  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Foxy  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Griffith  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hoekstra  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Kline (MN)  
Lamborn

Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
LoBiondo  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
McCarthy (CA)  
McCauley  
McClintock  
McCotter  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Mica  
Miller (FL)  
Miller (MI)  
Miller, Gary  
Minnick  
Mitchell  
Moran (KS)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Nye  
Olson  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Poe (TX)  
Posey  
Price (GA)  
Putnam

NOES—233

Abercrombie  
Ackerman  
Altmire  
Andrews  
Arcuri  
Baca  
Baird  
Baldwin  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Bishop (GA)  
Bishop (NY)  
Blumenauer  
Bocciari  
Boswell  
Boucher  
Boyd  
Brady (PA)  
Braley (IA)  
Brown, Corrine  
Butterfield  
Capps  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Castor (FL)  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Cohen  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)

Davis (IL)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ellison  
Engel  
Eshoo  
Etheridge  
Farr  
Fattah  
Filner  
Foster  
Frank (MA)  
Fudge  
Garamendi  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee

Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen  
Ryan (WI)  
Scalise  
Schauer  
Schmidt  
Schock  
Sensenbrenner  
Sessions  
Shadegg  
Shimkus  
Shuster  
Simpson  
Skelton  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Souder  
Space  
Stearns  
Sullivan  
Teague  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Westmoreland  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (FL)

Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Klein (FL)  
Kosmas  
Kratovil  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Levin  
Lewis (GA)  
Lipinski  
Loebsack  
Lofgren, Zoe  
Lowey  
Lujan  
Lynch  
Maffei  
Maloney  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (NY)  
McCollum  
McDermott  
Meek (FL)  
Meeks (NY)  
Michaud  
Miller (NC)  
Miller, George  
Mollohan  
Moore (KS)  
Moore (WI)  
Murphy (CT)

Murphy (NY) Ross Stupak  
 Murphy, Patrick Rothman (NJ) Sutton  
 Murtha Roybal-Allard Tanner  
 Nadler (NY) Ruppersberger Taylor  
 Napolitano Rush Thompson (CA)  
 Neal (MA) Ryan (OH) Thompson (MS)  
 Oberstar Salazar Tierney  
 Obey Sánchez, Linda Titus  
 Oliver T. Tonko  
 Ortiz Sanchez, Loretta Towns  
 Owens Sarbanes Tsongas  
 Pallone Schakowsky Van Hollen  
 Pascrell Schiff Velázquez  
 Pastor (AZ) Schrader Visclosky  
 Payne Schwartz Walz  
 Perlmutter Scott (GA) Wasserman  
 Perriello Scott (VA) Schultz  
 Peters Serrano Waters  
 Peterson Sestak Watson  
 Pingree (ME) Shea-Porter Watt  
 Polis (CO) Sherman Waxman  
 Pomeroy Shuler Weiner  
 Price (NC) Sires Welch  
 Quigley Slaughter Wexler  
 Rahall Smith (WA) Wilson (OH)  
 Rangel Snyder Woolsey  
 Reyes Speler Wu  
 Richardson Spratt Yarmuth  
 Rodriguez Stark

## NOT VOTING—14

Barrow Linder Paul  
 Bishop (UT) Lucas Roskam  
 Boehner McGovern Royce  
 Capuano Melancon Young (AK)  
 Gonzalez Moran (VA)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There is 1 minute remaining in the vote.

□ 1421

Mr. GEORGE MILLER of California changed his vote from “aye” to “no.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. ROYCE. Mr. Speaker, on rollcall No. 928 I was unavoidably detained. Had I been present, I would have voted “aye”.

Mr. ROSKAM. Mr. Speaker, on December 3rd, 2009 I was unavoidably detained and missed rollcall vote No. 928. Had I been present, I would have voted “aye”.

Mr. BOEHNER. Mr. Speaker, on rollcall No. 928 I was unavoidably detained. Had I been present, I would have voted “aye”.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DAVIS of Kentucky. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 225, nays 200, not voting 9, as follows:

[Roll No. 929]

## YEAS—225

Abercrombie Bishop (GA) Butterfield  
 Ackerman Bishop (NY) Capps  
 Adler (NJ) Blumenauer Cardoza  
 Altmire Boccieri Carnahan  
 Andrews Boren Carney  
 Arcuri Boswell Carson (IN)  
 Baca Boucher Castor (FL)  
 Baldwin Boyd Chandler  
 Berkley Brady (PA) Childers  
 Berman Braley (IA) Chu  
 Berry Brown, Corrine Clarke

Clay Cleaver  
 Clyburn Clyburn  
 Cohen Connolly (VA)  
 Conyers Conyers  
 Cooper Cooper  
 Costa Costa  
 Costello Costello  
 Courtney Courtney  
 Crowley Crowley  
 Cuellar Cuellar  
 Cummings Cummings  
 Dahlkemper Dahlkemper  
 Davis (AL) Davis (AL)  
 Davis (CA) Davis (CA)  
 Davis (IL) Davis (IL)  
 Davis (TN) Davis (TN)  
 DeFazio DeFazio  
 DeGette DeGette  
 Delahunt Delahunt  
 DeLauro DeLauro  
 Dicks Dicks  
 Dingell Dingell  
 Donnelly (IN) Donnelly (IN)  
 Doyle Doyle  
 Driehaus Driehaus  
 Edwards (MD) Edwards (MD)  
 Edwards (TX) Edwards (TX)  
 Ellison Ellison  
 Ellsworth Ellsworth  
 Engel Engel  
 Eshoo Eshoo  
 Etheridge Etheridge  
 Farr Farr  
 Fattah Fattah  
 Filner Filner  
 Foster Foster  
 Frank (MA) Frank (MA)  
 Fudge Fudge  
 Garamendi Garamendi  
 Giffords Giffords  
 Gordon (TN) Gordon (TN)  
 Grayson Grayson  
 Green, Al Green, Gene  
 Grijalva Grijalva  
 Gutierrez Gutierrez  
 Hall (NY) Hall (NY)  
 Halvorson Halvorson  
 Hare Hare  
 Harman Harman  
 Hastings (FL) Hastings (FL)  
 Heinrich Heinrich  
 Herseth Sandlin Herseth Sandlin  
 Higgins Higgins  
 Hill Hill  
 Hinchey Hinchey  
 Hinojosa Hinojosa  
 Hirono Hirono  
 Hodes Hodes  
 Holden Holden  
 Holt Holt  
 Honda Honda  
 Hoyer Hoyer

## NAYS—200

Aderholt Calvert  
 Akin Camp  
 Alexander Campbell  
 Austria Cantor  
 Bachmann Cao  
 Bachus Capito  
 Baird Carter  
 Barrett (SC) Cassidy  
 Bartlett Castle  
 Barton (TX) Chaffetz  
 Bean Coble  
 Becerra Coffman (CO)  
 Biggert Cole  
 Bilbray Conaway  
 Bilirakis Crenshaw  
 Blackburn Culberson  
 Blunt Davis (KY)  
 Boehner Deal (GA)  
 Bonner Dent  
 Bono Mack Diaz-Balart, L.  
 Boozman Diaz-Balart, M.  
 Boustany Doggett  
 Brady (TX) Dreier  
 Bright Duncan  
 Broun (GA) Ehlers  
 Brown (SC) Emerson  
 Brown-Waite, Ginny Fallon  
 Buchanan Fleming  
 Burgess Forbes  
 Burton (IN) Fortenberry  
 Buyer Foss

Kingston Mitchell  
 Kirk Moran (KS)  
 Kirkpatrick (AZ) Murphy (CT)  
 Kline (MN) Murphy, Tim  
 Kosmas Myrick  
 Kratovil Neugebauer  
 Lamborn Nunes  
 Lance Nye  
 Latham Olson  
 LaTourette Owens  
 Latta Paul  
 Lee (NY) Paulsen  
 Lewis (CA) Pence  
 Linder Petri  
 LoBiondo Pitts  
 Luetkemeyer Platts  
 Lummis Poe (TX)  
 Lungren, Daniel Posey  
 E. Price (GA)  
 Mack Putnam  
 Manzullo Radanovich  
 Marchant Rehberg  
 McCarthy (CA) Reichert  
 McCaul Roe (TN)  
 McClintock Rogers (AL)  
 McCotter Rogers (KY)  
 McDermott Rogers (MI)  
 McHenry Rohrabacher  
 McKeon Rooney  
 McMorris Ros-Lehtinen  
 Rodgers Roskam  
 McNeerney Royce  
 Mica Ruppersberger  
 Miller (FL) Ryan (WI)  
 Miller (MI) Sánchez, Linda  
 Miller, Gary T.

## NOT VOTING—9

Barrow Gonzalez Melancon  
 Bishop (UT) Lucas Moran (VA)  
 Capuano McGovern Young (AK)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1431

Mr. RUPPERSBERGER changed his vote from “yea” to “nay.”

Ms. JACKSON-LEE of Texas changed her vote from “nay” to “yea.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CAPUANO. Mr. Speaker, I missed a vote today. Had I been present, I would have voted on rollcall No. 929 “yea.”

SATELLITE HOME VIEWER  
REAUTHORIZATION ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 3570, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill, H.R. 3570, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 394, nays 11, not voting 29, as follows:

[Roll No. 930]

## YEAS—394

Abercrombie Alexander Baca  
 Aderholt Altmire Bachmann  
 Adler (NJ) Arcuri Bachus  
 Akin Austria Baird

Baldwin  
Barrett (SC)  
Bartlett  
Barton (TX)  
Becerra  
Berkley  
Berman  
Berry  
Biggart  
Bilbray  
Bilirakis  
Bishop (NY)  
Blackburn  
Blumenauer  
Blunt  
Bocieri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boucher  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Bright  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Cantor  
Cao  
Capito  
Capps  
Cardoza  
Carnahan  
Carson (IN)  
Carter  
Castle  
Chaffetz  
Chandler  
Childers  
Chu  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Conaway  
Connolly (VA)  
Conyers  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
Deal (GA)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Dingell  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth  
Emerson  
Engel  
Eshoo

Etheridge  
Farr  
Fattah  
Filner  
Fleming  
Forbes  
Fortenberry  
Foster  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garamendi  
Gerlach  
Gingrey (GA)  
Gohmert  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseht Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)  
Latham  
LaTourette  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Lipinski

LoBiondo  
Loebsack  
Loifgren, Zoe  
Lowey  
Luetkemeyer  
Lujan  
Lungren, Daniel  
E.  
Lynch  
Franks (MA)  
Maffei  
Maloney  
Manzullo  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McCollum  
McCotter  
McDermott  
McHenry  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Murtha  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Neugebauer  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Owens  
Pallone  
Pascrell  
Pastor (AZ)  
Paulsen  
Payne  
Pence  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)  
Price (NC)  
Quigley  
Radanovich  
Rahall  
Rangel  
Rehberg  
Reichert  
Reyes  
Richardson  
Rodriguez  
Roe (TN)  
Rogers (AL)  
Rogers (MI)  
Rohrabacher  
Rooney  
Ros-Lehtinen

Roskam  
Ross  
Rothman (NJ)  
Roybal-Allard  
Royce  
Ruppersberger  
Rush  
Ryan (OH)  
Ryan (WI)  
Sanchez, Linda  
T.  
Sanchez, Loretta  
Sarbanes  
Scalise  
Schakowsky  
Schauer  
Schiff  
Schmidt  
Schock  
Schrader  
Schwartz  
Scott (GA)  
Scott (VA)  
Sensenbrenner  
Serrano  
Sessions  
Sestak  
Shadegg  
Shea-Porter  
Shimkus

Shuler  
Shuster  
Simpson  
Sires  
Skelton  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Snyder  
Souder  
Space  
Speier  
Spratt  
Stark  
Stearns  
Stupak  
Sullivan  
Sutton  
Tanner  
Taylor  
Teague  
Terry  
Thompson (CA)  
Thompson (MS)  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Tierney  
Titus

Tonko  
Towns  
Tsongas  
Turner  
Upton  
Van Hollen  
Velázquez  
Visclosky  
Walden  
Walz  
Wamp  
Wasserman  
Schultz  
Waters  
Watson  
Watt  
Waxman  
Weiner  
Welch  
Westmoreland  
Wexler  
Whitfield  
Wilson (OH)  
Wilson (SC)  
Wittman  
Wolf  
Woolsey  
Wu  
Yarmuth  
Young (FL)

## NAYS—11

Cassidy  
Culberson  
Duncan  
Flake

Foxx  
Garrett (NJ)  
Latta  
Lummis

McClintock  
Paul  
Smith (NE)

## NOT VOTING—29

Ackerman  
Andrews  
Barrow  
Bean  
Bishop (GA)  
Bishop (UT)  
Braley (IA)  
Brown-Waite,  
Ginny  
Campbell

Capuano  
Carney  
Castor (FL)  
Fallin  
Giffords  
Gonzalez  
Johnson, E. B.  
Linder  
Lucas  
Marchant

McGovern  
Melancon  
Moran (VA)  
Perlmutter  
Putnam  
Rogers (KY)  
Salazar  
Sherman  
Slaughter  
Young (AK)

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on this vote.

□ 1438

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: “A bill to extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes.”.

A motion to reconsider was laid on the table.

Stated for:

Ms. SLAUGHTER. Mr. Speaker, I was unavoidably detained and missed rollcall vote No. 930 (H.R. 3570 as amended). Had I been present, I would have voted “yea” on rollcall vote No. 930.

## LEGISLATIVE PROGRAM

(Mr. CANTOR asked and was given permission to address the House for 1 minute.)

Mr. CANTOR. I yield to the gentleman from Maryland, the majority leader, for the purpose of announcing next week’s schedule.

Mr. HOYER. I thank my friend for yielding.

Mr. Speaker, on Monday the House will meet at 10:30 a.m. for morning-hour debate and noon for legislative business, with votes postponed until

Tuesday. On Tuesday the House will meet at 9 a.m. for morning-hour debate and 10 a.m. for legislative business. Members are advised votes could occur as early as 10 a.m. on Tuesday.

On Wednesday and Thursday the House will meet at 10 a.m. for legislative business, and on Friday the House will meet at 9 a.m. for legislative business.

We will consider several bills under suspension of the rules. The complete list of suspension bills will be announced by the close of business tomorrow.

In addition, we will consider H.R.—I don’t have the number yet, of the tax extenders bill of 2009, and H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009.

I thank the gentleman for yielding.

Mr. CANTOR. Mr. Speaker, I thank the gentleman.

Mr. Speaker, since this is our first colloquy following Thanksgiving break, I would like to ask the gentleman if he could give the Members a sense of what legislation perhaps that we will be voting on for the remainder of this month. And I yield.

Mr. HOYER. First of all, let me say to the gentleman that it is my hope that we will adjourn the first session of the Congress from the House’s perspective by the 18th. With respect to the bills that we are considering, obviously we have seven appropriation bills that have not yet been enacted. The continuing resolution expires on the 18th of December.

It is my hope that before that time we will have provision for the passage of all seven of the appropriation bills, either individually, which may be difficult because the Senate has not passed three of those bills on its floor. In one form or another we will have all seven of those bills passed prior to the 18th.

The Speaker, Leader REID, and I all want to avoid another continuing resolution, which we think is not the best way to move forward. We are hopeful that we can accomplish that.

In addition, the regulatory reform bill you heard will be next week, the tax extenders. We have the unemployment insurance. We have the COBRA extension. Both of those expire on December 31. We have the PATRIOT Act, the provisions of which expire on December 31. We want to address that. We have got highway reauthorization, which also expires on December 31. We want to address that. And we have, I’m sure, other bills that we will be considering.

As you know, I know you’re happy about it, I’m happy about it, Iran sanctions will be on the calendar as well, on the Suspension Calendar the week after next.

Mr. CANTOR. Mr. Speaker, I thank the gentleman. And I know I’m joined by the gentlelady from Florida in thanking you very much for your work on the Iran Refined Petroleum Sanctions Act and bringing that to the floor.

Mr. HOYER. I thank the gentleman. If the gentleman will yield.

Mr. CANTOR. I yield.

Mr. HOYER. I appreciate the bipartisan work. I see the ranking member of the Foreign Affairs Committee, my friend, Ms. ROS-LEHTINEN, who has worked very hard on this as well with Mr. BERMAN. I'm pleased this is coming. It's very important that we send a very strong message as we see the Iranian Government and the President say they are going to do one thing, but apparently never do it. So I think it's appropriate that we act.

Mr. CANTOR. I thank the gentleman.

Mr. Speaker, I would ask the gentleman, I note that he did announce that we will be considering H.R. 4173, the financial regulation bill, and perhaps seven appropriations bills. I don't know which form that would be in, whether it would be separately or in an omnibus form; but, nonetheless, all of these are incredibly large measures costing billions of dollars of taxpayer money, stretching over thousands of pages.

My question, Mr. Speaker, is, What is the gentleman's intention as to the period of time which Members and the public will have to review these bills prior to the Members voting on them? And does that mean that we will still be consistent with the gentleman's representations on other bills prior to this session that we would have 72 hours for consideration and review of those bills as well as any manager's amendment and self-executing amendments in a rule?

And I yield.

Mr. HOYER. I thank the gentleman for yielding.

He is correct, I have made that representation; and I want to try to accomplish that objective. As the gentleman also knows, on both sides we have experienced this issue, at the end of a session, as I fervently hope we are closely achieving, at the end of a session obviously when you're having conference reports, it's not necessarily possible to do that if you can't get the conference reports moved quickly enough by the time you want to adjourn.

However, having said that, the gentleman is correct, the regulatory reform bill that is going to be reported out by the committee has been reported out, will be available this evening, and will be available—I don't expect to have that on the floor any sooner than Tuesday of next week.

□ 1445

So there will be plenty of time to review that piece of legislation. As you know, that has had extensive hearings. Two of the bills that are included within the framework of that bill we've already passed, as you know. So for that bill there will be a lot of time.

With respect to the omnibus that you referred to, we have discretely, individually, considered each one of those bills. They've passed the House. The

Senate and the House have reached agreement, I think, or hopefully, are on the verge of reaching agreement on those bills individually so that they can be included. The Senate, as I pointed out, has not considered three of the bills on the floor, and I'm not sure, given their focus on health care, that they will be able to do so. So from that standpoint, they would be included in a conference report as opposed to considered on the Senate floor. They've been considered on the House floor, and we will give as much notice as we possibly can on those. But the good news is we've considered those individually on the floor, so the overwhelming majority of those bills are well-known to Members.

Mr. CANTOR. I thank the gentleman. And I do realize that the House has considered its version, although we all know that when they come back from conference especially, many of the Members on both sides of the aisle have some concerns about earmarks and others, which would, I think, warrant the time to review these bills. In the same light, Mr. Speaker, it is the concern of many that we have an opportunity to look at any manager's amendment or self-executing amendments in the rules that are presented to the body and our having time to review that as well. And I would just make that note.

Mr. Speaker, I would ask the gentleman, does he expect a final health care bill this month? And I yield.

Mr. HOYER. I will choose my words carefully. As opposed to expect, I hope that there will be a bill. Clearly, the Senate is debating that bill. We believe that this is one of the most important bills that any Member will have considered during the course of their tenure in this House, including myself, and I've been here, as you know, some time. The Senate is debating those bills now. Senator REID has had great difficulty getting this bill to move along in an orderly fashion, which, I think, makes it impossible to predict when the Senate will be able to pass it. I can tell you that I know that Leader REID is hopeful that this bill will be considered over the next 10, 12 days, and that they will be able to pass it prior to the 18th of December. And I'm hopeful that they can as well.

Mr. CANTOR. I thank the gentleman on that. And as a followup to that, Mr. Speaker, I know there's been some discussion or reports that the Senate may be scheduled to be in session past the Christmas holiday, and I was wondering, Mr. Speaker, if the gentleman expected that to impact the House's schedule after Christmas. And I yield.

Mr. HOYER. I thank the gentleman for yielding. It's my expectation that it will not. But I want to give this caveat. If, in fact the Senate passes its health care reform bill early enough so that we may have a conference and conclude a conference so that at some time in December we could pass a conference report, with that caveat—now whether

that will happen or not, obviously I am not able to predict that, but other than that circumstance, it's my expectation that we will not be in the week of the 21st or the week of the 28th.

Mr. CANTOR. I thank the gentleman for that.

Mr. HOYER. Nor for that matter, as the schedule, as you know, reflects, the week after the 1st, which is the 3rd, I guess.

Mr. CANTOR. I thank the gentleman, Mr. Speaker. Mr. Speaker, I would ask the gentleman does he expect to vote on increasing the Nation's debt limit this month? And I yield.

Mr. HOYER. Not only do I expect it, my belief is that it's mandatory that we do so. Obviously, the United States has never defaulted on its debt, and to do so would cause international disruption in the financial markets, further exacerbating an already difficult economic situation for our country and for countries around the world. So it is not only my expectation, but I believe it is absolutely essential that we do that. As the gentleman knows, we have passed already, in this House, an extension of the debt. The Senate has not passed that at this point in time, but I do expect it to be included in one of the pieces of legislation that we consider. I think it is absolutely essential and, in my view, whether you like the debt or don't—I mean, none of us like it—it would be irresponsible for the Congress not to pass a debt extension for debts that it has incurred. I yield back.

Mr. CANTOR. I thank the gentleman. Mr. Speaker, I'd like to ask a followup to that comment. Does the gentleman expect us to have an up-or-down vote on the increase of the debt limit, or, if not, if it is a part, as he suggested, of another piece of legislation, which legislation that would be? And I yield.

Mr. HOYER. Well, that has not been finally decided at this point in time. We'll have to wait to see what the Senate feels it can do in one of the conferences that we have. As the gentleman probably knows, under Senate procedure, while they're considering the health bill, the only thing they can rise for, without the necessity to have a 60 vote to go back into consideration of the health bill, is a conference report. So my expectation is it will be in a conference report.

Mr. CANTOR. I thank the gentleman. Mr. Speaker, I'd like to turn to the question of whether this House will be dealing with what has been reported, a second stimulus bill. And I know that we have been reading much about the White House job summit today. There's been a lot of reports in the press about the majority's meeting on a second stimulus bill, and I'd like to ask the gentleman, Mr. Speaker, if he could clarify the timing, the content and the cost of a proposed second stimulus bill. And I yield.

Mr. HOYER. Well, the gentleman, of course, wants to use language that we're not using. We're focused on jobs. Stimulus is a broader reach, frankly,

than we are looking at. We do believe, though, as the gentleman has expressed on a number of occasions, that jobs is the focus. And we are looking at legislation which will help to create jobs, expand our economy, ensure our growth.

As the gentleman knows, the CBO released their report on the Recovery Act which we passed and its impact on the economy and employment in the third quarter, which was the first quarter in 8 that we had grown the GDP. As the gentleman knows, that was not the case in 2008, of course. CBO estimates that because of the Recovery Act, 600,000 to 1.6 million jobs, more Americans had jobs as a result of the Recovery Act. The GDP, according to CBO, was 1.2 percent to 3.2 percent higher than it would have been if we had not passed the Recovery Act. And the unemployment rate was nine-tenths of a point lower than it would have been.

Mark Zandi, the chief economist of Moody's Economy.com recently said the stimulus is doing what it was supposed to do. It is contributing to ending the recession. In my view, without the stimulus, the GDP would still be in the negative as opposed to positive. Unemployment would be above 11 percent, and there are a little over 1.1 million more jobs out there as of October than there would have been without the stimulus.

Having said that, you and I both agree not enough has been done. Notwithstanding the fact, essentially, there has been, with 2-months' exception with a little glitch-up, a straight-line decline in the number of loss of jobs per month from the high of the last month of the last administration of 747,000 lost. As you know, it's less than 190,000 lost. We don't have the report on Friday, but it's less than that, I think, which is progress, but it's not success. Success will be when we start gaining jobs.

In that context, I tell my friend that we are in fact looking at ways and means to spur greater job creation, allow small businesses to expand, get additional credit, as well as continuing to assist those who have lost their jobs and are in need of assistance. But I cannot, at this point in time, give you the specifics.

You have correctly observed the administration, because of its concern about job creation, is having a summit or a forum today to seek advice from experts on the economy, experts in the business field, and we certainly are going to look to them as well, talking to them. I want to also say to my friend that I would be more than pleased to receive from you and Members on your side of the aisle suggestions that you might have to accomplish a greater growth of jobs in our economy. I yield back.

Mr. CANTOR. Mr. Speaker, I certainly appreciate that extension of an offer to allow us to, once again, proffer our ideas. As the gentleman may know, I did speak out yesterday with a list of

what I call a no-cost jobs plan, and I am happy to forward that to the gentleman. I have made a similar type of request of the White House, and I think have gotten a response that they too may be willing to consider some of the Republican solutions to the current crisis that people are feeling across this country.

Mr. Speaker, I would say that I am somewhat heartened to hear the gentleman talk about the ineffectiveness of the first stimulus bill. The gentleman did say that the term "stimulus" was a little broader than what they're looking at now. And in my opinion, I thought that the definition of a stimulus bill was to create jobs. So if the gentleman now is agreeing with me that the creation of jobs did not hit the mark the way that was promised on the first stimulus bill, that we do need to finally focus on job creation, that gives me a lot of confidence, Mr. Speaker, because at least we're now talking about the same thing. And along those lines, again, I am thankful that the gentleman asked for our solutions, and we're going to proffer those.

But I do want to suggest that we can, and there are some commonsense things we can sit down and probably agree on that we could do right now that wouldn't cost the taxpayers anything, and we wouldn't have to be continuing to mortgage the future of our children. I think both of us can agree, Mr. Speaker, that both sides have done their share to dig the hole of incurring too much debt for this country. Enough is enough. And I do think that we have and will offer solutions that will begin to arrest that trend, and at the same time focus on job creation.

Mr. HOYER. Will my friend yield?

Mr. CANTOR. I will. And I would like to ask one more point, and then I will yield. If we are talking about finally shifting to the mode, Mr. Speaker, of job creation, I'd like to ask the gentleman, has there been any discussion in his caucus about perhaps holding back on some of the measures that are being discussed, such as the financial regulatory reform bill coming to the floor next week, because there is a study recently released by the University of Chicago, University College London, and George Mason University economists, which said that this package of reform bills coming out of the Financial Services Committee will reduce consumer borrowing by at least 2.1 percent and reduce new jobs by 4.3 percent. And essentially, the study comes to the conclusion that interest rates will rise by 141 basis points, which will yield the loss of over a million jobs over the next 5 years. So if we are concerned about job creation, why are we moving forward with such a measure? And I yield.

Mr. HOYER. I thank the gentleman for yielding. Let me start at the beginning of his statement, that I might facetiously say was written by Lewis Carroll, who wrote Alice in Wonderland, of course, when he says that I

characterized the stimulus package, which I did not; I have characterized the Recovery and Reinvestment Act, which the CBO said gained us 600,000 to 1.4 million jobs.

□ 1500

The gentleman likes to do this. He has done it a number of times. He says, "Finally we're talking about jobs." As a matter of fact, in February we passed legislation—with no help, frankly, from your side—which, in fact, CBO says has created up to 1.4 million new jobs in America. In addition, we believe we've saved a lot of jobs in America as well. We are not where we want to be.

The gentleman also indicates—and I would agree—that both sides of the aisle have dug the hole deeper on the deficit. I say with all respect to my friend, we had an administration that was in office for 8 years, the Clinton administration. I would remind my friend—I am sure he is familiar with these statistics—that he inherited a \$292 billion deficit from George Bush I. He reduced that deficit that year; the next year he reduced it further; the third year he reduced it even further; the fourth year he reduced it even further; and the fifth, sixth, seventh and eighth years, the Clinton administration economic program took us into surplus—the only administration in your lifetime, and I am much older than you are—the only administration in my lifetime that had 4 years of surplus, and the only administration in my lifetime that ended their 8 years with a net surplus.

So I would disagree with my friend that we contributed. In fact, your administration under Mr. Bush inherited a \$5.6 trillion surplus. Who said so? President Bush said so in 2001. We dissipated that into a \$10 trillion deficit—arguably the largest turnaround of any nation in the world, certainly in terms of dollars. I'm not sure on percentage. Some countries, third-world countries, have pretty bad experiences. But to turn around a \$5.6 trillion surplus by \$15 trillion and turn it into a \$10 trillion deficit and the worst economy we've seen in three-quarters of a century under the economic program that was pursued by your side of the aisle, very frankly I'm not going to take responsibility for that, I tell my friend with all due respect.

This administration was confronted with the worst economic situation of any administration since Franklin Roosevelt. We have been trying with, I think, real focus, and in some respects real courage, because some of the things we did were very tough. You, I think, joined us when we responded to your administration, the Bush administration, and said through Secretary Paulson and Mr. Bernanke, the country is in crisis, and if we do not act and act decisively, we may go into a depression.

You will recall that my side of the aisle responded to the Republican President, the chief executive of our



country, who said we were in crisis, and we responded, and 142 of us voted on a bill that nobody wanted to vote for in order to preclude us going into crisis. Your party, unfortunately, did not support your President, as you recall, in a majority sense on that particular vote in September of 2008.

Luckily, we came back. We had a failure; luckily we came back. Notwithstanding the unpopularity of that bill, we did contribute to stabilizing this economy. It was a tough vote. Americans are angry about it; we're angry about it. Bailing out people who were extraordinarily fiscally irresponsible—those same people that we want to regulate next week to make sure they are not subject to the regulatory neglect that they were subjected to for 8 years when the administration's policy was to simply get out of the way, not to regulate, not to oversee, and we saw an extraordinary financial meltdown.

So I will tell my friend with all due respect, I do not accept his premise that we haven't been talking about jobs. I have not read the reports to which he referred, but I do not accept his premise that in fact making sure that these big financial institutions operate in a way that minimizes risk—not just to them; they can afford the risk. They sock away money somewhere; the people who couldn't afford the risk who saw their 401(k)s go into the tank, saw their retirement put at risk.

So I tell my friend that next week, we are going to adopt legislation hopefully that will try to ensure that America does not go down that road again. Just as Franklin Roosevelt in the 1930s responded with regulation to ensure that the stock market excesses and betting, on which people lost, did not reoccur and very frankly has kept us pretty stable. But, unfortunately, a lot of the regulatory neglect—which I want to make clear was not only in the Bush administration; there was some in the previous administration—we ought to have learned our lesson. I would hope you would join with us in adopting this regulatory reform package which will protect consumers and ensure responsible behavior on behalf of those whom we entrust with large parts of our national wealth and the health of our economy.

Mr. CANTOR. I thank the gentleman.

And I would say he would agree with me that since the beginning of the 11th, priority one for this Nation has been job creation.

Mr. HOYER. That's correct.

Mr. CANTOR. And the facts are the facts. The stimulus bill was brought to this floor with the promise that it would stop unemployment from exceeding 8 percent. We are now at over 10 percent national unemployment. The facts are the facts.

Under this administration, the deficit has tripled since the last administration left. That is the facts. The gentleman points out, CBO says that we've

created X number of jobs. I would say to the gentleman, while you have people across this country—10.2 percent of the workforce being out of work—there is no way that anyone in this country would believe CBO when it says the economy is better. That's the fact.

And so if we're going to be about job creation, my simple point is this about bringing the package of financial regulatory reform bills to the floor. I don't doubt the gentleman's intention to try and do the right thing. But the reality is this is a case where we're doing the wrong thing for the right reason. This bill impacts negatively the job creators. We know this bill will increase interest rates 141 basis points, which means the loss of an additional million-plus jobs over the next 5 years.

So in that vein, I would ask the gentleman again, if we are to see our way to work together, let's relieve the harm. This bill adds to the harm. In the same way, I would ask the gentleman, there is continued talk of the bill otherwise known as Card Check. If I've heard it once, I think all Members have, from small businesses and large, the job creators, Please, please don't pass that bill because that will create a huge drain on job creation.

So I would ask the gentleman, is there any sense in his caucus that maybe now in times of high unemployment is not the time to bring up Card Check?

Mr. HOYER. Who mentioned that? Do you have any other windmills that you want to tilt at?

Mr. CANTOR. Mr. Speaker, if the gentleman would like to come to my district and talk to the businesses there, I think I could gather up many individuals who have put their entire life's investment savings on the line and don't want to see Washington or this Congress continue to threaten the very existence of those businesses.

I yield.

Mr. HOYER. I thank the gentleman for yielding.

We got off your premise pretty quickly—to another bill that's in the Senate—my view is because we did create jobs, CBO says we created jobs, and for the gentleman to say the economy is not in better shape today than it was when we took over from the last administration, I would remind the gentleman, 747,000 jobs were lost in the last month of the Bush administration; 3.8 million jobs were lost in the last year of the Bush administration as opposed to the last year of the Clinton administration, comparing the last two administrations, 1.9 million jobs were added.

I suggest to the gentleman what we see on this regulatory reform bill is exactly the philosophy that was brought under the Bush administration. If we simply get out of the way, don't bother anybody, just get out of the way, Government, take the referees off the field and all the players will play fairly, my experience in life has not been that. My experience in life is when you get the

referees off the field, somebody leaves the line about a second before the ball is hiked, and people lose. And that is what happened. The SEC didn't regulate, the FDIC didn't regulate the way it should have, the administration didn't regulate the way it should have. And what went wrong? The financial community went amok.

Mr. Greenspan came before the Congress of the United States and said, I made a mistake. I thought people would act consistent with a fair evaluation of the risk they were willing to take. And Mr. Greenspan said, I was wrong. In fact, they did not. And they incurred risk. And who paid the price? All of us paid the price. All of us as taxpayers paid the price at Secretary Paulson's request, Republican Secretary of the Treasury, to try to sustain this economy not going into a depression.

So I disagree with my friend that I haven't addressed the issue of jobs. We have. I disagree with the gentleman when he says 1.4 million jobs. Well, we're still losing jobs. We are. But we're losing—and none of the statistics, by the way, that I have intoned this afternoon has the gentleman rejected as being accurate: 747,000 jobs lost during the last month of the Bush administration. Less than 190,000 this month.

Is that where we want to be? Of course it's not. We want to create 190,000. We want to create 500,000 jobs. We want to get people back to work. But the first thing we had to do was to reverse the extraordinary decline that we inherited in January of this year. I think we've done that.

I will tell my friend that when those who open up their retirement funds that are invested in mutual funds or something else and find that their retirement funds are up 57 percent from the low point shortly after this administration took office, they're going to think that's progress. Is it where they want to be? No. They want to be back at a hundred percent of where they were. They're not there yet. We need to keep working, and that's why we're considering a jobs bill before we leave here. If we can put one together, hopefully in a bipartisan fashion, we will do so.

Mr. CANTOR. I thank the gentleman.

My purpose in bringing up this notion that we still have this Card Check bill out there is to demonstrate the fact that there really is a disconnect as far as doing what we say and follow what I do. Because if we're serious about relieving the pain on job creators, if we're serious about getting Americans back to work, we wouldn't be necessarily bringing the wrong bills to the floor for the right reason, which is my point, Mr. Speaker.

No one is quibbling with intention here. I think that I would agree with the gentleman that there is a sense in America that there is not a level playing field at giving people a fair shot at their returns on Wall Street or a fair

shot in terms of heavy regulations in hand coming from Washington.

So we can all agree that we need to make the environment better for job creators and people who want to jump in and take risks. But the financial regulatory reform package that is being brought to the floor just as the Card Check bill that's still being spoken of around here, those are job killers. We ought to at least relieve the harm so that people we're relying on to create jobs can get back to work to do that. That was simply my point, Mr. Speaker.

In closing, Mr. Speaker, I would just note for the gentleman that 2.8 million Americans have lost their jobs since the passage of the majority's first stimulus bill; and the Nation's debt now stands at over \$12 trillion.

I thank the gentleman for his time, and I yield back.

#### ADJOURNMENT TO MONDAY, DECEMBER 7, 2009

Mr. HOYER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10:30 a.m. on Monday next for morning-hour debate.

The SPEAKER pro tempore (Mr. CUELLAR). Is there objection to the request of the gentleman from Maryland?

There was no objection.

#### IMMIGRATION

(Ms. Clarke asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CLARKE. Mr. Speaker, just last week our Nation celebrated Thanksgiving. It was a time for families across this Nation to unite and reflect on the things we are grateful for.

This Thanksgiving I looked around my holiday table and admired the diversity of my family, many of whom are natural born citizens, some naturalized citizens, and some Jamaican immigrants. We are a blended family blessed with the realization of our own American dream. I realized that my story enjoys a certain similarity to the first Thanksgiving celebration. Native Americans breaking bread with Pilgrims. A blending of two different cultures, one immigrant, one native.

Like my family, many families across this Nation are a blend of many cultures and citizen status and are affected by our dysfunctional immigration system.

Mr. Speaker, immigration reform is too important to be delayed. As we prepare to debate immigration reform, I'm working with my colleagues to ensure access to the American Dream. Just like you, I, too, am the face of immigration; all of us coming together representing the diversity of this great Nation, the United States of America.

□ 1515

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### WHAT HAPPENED TO THE CIVILIAN SURGE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I rise to ask: What happened to the civilian surge in President Obama's new strategy for Afghanistan? In his address to the Nation on Tuesday night, the President said that there are three parts to his Afghanistan strategy: a military effort, a civilian surge, and partnership with Pakistan. But while the President spoke at great length about the military effort and about Pakistan, he gave virtually no details about the civilian surge. In fact, he devoted only one sentence of his speech to it—a brief sentence about agricultural assistance.

Earlier this year, with great fanfare, the President unveiled his plans for a civilian engagement. He said it would help the Afghan people to rebuild their economy, infrastructure, education system, justice system, government, and civil society. I supported this policy because I believe that helping the Afghan people to improve their lives is the best way to defeat violent extremists. But it's now painfully obvious that the White House has all but forgotten about the civilian surge. It appears to have been lost in his plan to escalate the war with 30,000 more troops, which is deeply disappointing to me. But it's not the only reason why I oppose the escalation. I oppose it because the American people don't support it and can't afford it. In fact, America's military spending in Afghanistan alone next year will now exceed the entire official military budget of every other country in the world.

The escalation will also lead the Afghan people to see our troops as an occupying army, and the history of Afghanistan shows that the Afghan people will never accept a foreign occupation. As a result, the plan will boomerang because it will help the Taliban when they are recruiting for new members.

The escalation will also lead to more casualties of our troops and it will continue to stretch our military forces, which are already stretched much too thin. It will reduce the dwell time for our troops back home between deployments, placing even greater burdens on them and on their families.

The President's new strategy, Mr. Speaker, also doesn't include a realistic exit plan. The President talks about transferring responsibility for the war to Afghanistan within 18

months, but since there is very little chance that the Afghans will be ready by then, our troops are likely to be stuck for many, many years to come.

Finally, I'm disappointed in the President's plan because it continues to rely on the military option that has failed. At the same time, it ignores the far more effective alternative that is available to us. That alternative is smart security. Smart security calls for a strong emphasis on diplomacy, humanitarian aid, and economic development for the Afghan people. That is what will stabilize Afghanistan. That is what will win the hearts and minds of the Afghan people.

More broadly, smart security includes a comprehensive plan that would eliminate the root causes of extremism in Afghanistan and elsewhere. It dismantles existing networks of extremists, and it would stop the spread of nuclear and conventional arms around the world. I have proposed a smart security platform for the 21st century, Mr. Speaker, and it's in my bill, House Resolution 363. I invite every Member of the House to read it and to work with me to implement it.

Mr. Speaker, I'm as committed to defeating extremism in Afghanistan as anyone, and I do not believe that simply pulling our troops out of Afghanistan overnight is the right way to go. But I do believe that the Afghan people need political, economic, and social solutions for their problems. They do not need a military solution. That's why I will join with others throughout our Nation in the days ahead to oppose the escalation of this war and to urge the President to shift to smart security to make our Nation and the world a safer place.

#### GITMO AND YEMENI DETAINEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. WOLF) is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, in a speech at West Point earlier this week, President Obama explicitly designated Yemen as an emerging al Qaeda stronghold. The President stated, "Where al Qaeda and its allies attempt to establish a foothold—whether in Somalia or Yemen or elsewhere—they must be confronted by growing pressure and strong partnerships." How can the President reconcile these legitimate concerns about Somalia and Yemen while simultaneously releasing Guantanamo Bay detainees to these dangerously unstable countries?

Last month, the Obama administration secretly released another detainee to Yemen—information hidden from the American people under a provision in the FY 2009 spending bills explicitly prohibiting the disclosure of any information to the American people. If the American people knew who these detainees were, the acts of terror they have committed, or to which countries they were going to be released, they

would never stand for it. This is a dangerous precedent. Given that more than 74 Guantanamo detainees have returned to active terrorism, there's a real concern about the potential for these remaining detainees to return to a life of terror.

The American people deserve the facts. I encourage the public to visit The New York Times "Guantanamo Docket" Web site to review what scant information about these detainees was released by the previous administration. I know they will find these summaries deeply troubling.

Of the many unstable countries to which detainees may be sent, I'm most concerned about the impending release of 26 detainees to Yemen, a growing haven for al Qaeda in the Persian Gulf. It is my understanding that the administration is also preparing to release several other detainees to another country that anyone with a basic understanding of world affairs would agree is unacceptable. Unfortunately, this information, again, has been classified.

As the President acknowledged, Yemen is one of the most unstable countries in the world today, and a country where al Qaeda has reconstituted its operations over the last year. The director of the National Counterterrorism Center, Michael Leiter, stated in an October Voice of America interview, "In Yemen, we have witnessed the reemergence of al Qaeda in the Arabian Peninsula and the possibility that that will become the base of operations for al Qaeda."

A number of former Guantanamo Bay detainees have returned to Yemen to launch terrorist attacks, including one just 2 months ago. On October 13, Saudi police prevented an imminent suicide bomber attack as two al Qaeda terrorists slipped across the border from Yemen. One of these would-be suicide bombers, Yousef Mohammed al-Shihri, was a former Guantanamo detainee released in 2007 to Saudi Arabia. He quickly left Saudi Arabia for Yemen, where he rejoined al Qaeda.

In September 2008, another former Guantanamo Bay detainee, Said Ali al-Shihri, helped orchestrate the terrorist attack on the U.S. Embassy in Sana'a, Yemen, killing 10 guards and civilians. Since that time, al Qaeda's posture in Yemen has grown stronger with the merger of the Saudi and Yemeni arms of al Qaeda into one group—al Qaeda in the Arabian Peninsula—with Yemen as its base for training and operation. Yemen is also now home to the radical cleric Anwar al-Aulaqi, who influenced Fort Hood gunman Major Nidal M. Hasan and who U.S. intelligence believes to be a critical link to al Qaeda's efforts to radicalize Americans and Europeans.

I repeatedly urged the President to halt the release of detainees to dangerously unstable countries. It is counterintuitive, and dangerous, to return terrorist detainees to countries he acknowledges as al Qaeda sanctuaries.

If this administration is not prepared to show good judgment on this issue, this Congress must take action to provide oversight and reconsider these irresponsible decisions. But this Congress has yet to hold a single hearing to raise these concerns and demand answers from this administration.

In closing, Mr. Speaker, the American people deserve better judgment from this administration and better oversight from this Congress.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

(Mr. POE of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### U.N.'S MULTIPLE ANTI-ISRAEL RESOLUTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Sixty-two years ago, on November 29, 1947, the United Nations did something it should be very proud of. That day, the United Nations General Assembly voted overwhelmingly to authorize the creation of a Jewish state, paving the way for the founding of a democratic State of Israel 6 months later. But since then, the paths of the U.N. and Israel have diverged.

Israel's freedom, democracy, and prosperity are a model for the region and the world. The U.N., however, has abandoned its founding principles, has been manipulated and coerced by dictatorship after dictatorship, and has been plagued by corruption and mismanagement. Nowhere has the self-destructive, misguided path of the U.N. been more evident than in its bias towards Israel.

This week, instead of commemorating Israel's creation and celebrating its many achievements, the U.N. repeated its annual ritual of mourning Israel's existence by adopting six anti-Israel resolutions. As usual, it did so under the guise of its "International Day of Solidarity with the Palestinian People," celebrated the same day as that historic 1947 General Assembly vote to create a Jewish state. But where is the U.N.'s "International Day of Solidarity" with the people of Israel, who continue to be threatened by Hamas, Hezbollah, and other such militant groups; and by their state sponsors, Iran and Syria, who continue to pursue nuclear weapons and the missiles to deliver them? In the face of continued anti-Israel bias at the U.N., what has the United States done to stand up for our ally and fellow democracy?

This past April, Ambassador Susan Rice promised that the U.S. would be "fighting against the anti-Israel" rhetoric at the U.N. Unfortunately, this was easier said than done. The anti-Israel attacks at the U.N. are not an occasional diversion. They are relentless. They pervade the U.N., and they are not easily stopped.

An excellent case study in this bias is the U.N.'s response to Israel's conduct last winter of Operation Cast Lead, which was carried out to defend Israeli citizens from rocket and mortar attacks by Hamas and other violent extremist groups in Gaza. The Human Rights Council authorized a "fact-finding mission" with a prejudicial mandate to investigate Israel and only Israel. The mission released the so-called "Goldstone Report" that falsely accused Israel of deliberately attacking civilians, implicitly denied to Israel the right of self-defense, and recommended that the case be referred to the International Criminal Court. Despite the heralded U.S. membership and engagement in the Human Rights Council, that rogues' gallery adopted the report's recommendations and condemned Israel. But lest we forget, in the last year alone, the Human Rights Council has adopted seven anti-Israel resolutions and perpetuated a gross anti-Semitic assault through the Durban II Conference.

□ 1530

So it should not have come as a surprise that the Human Rights Council endorsed the Goldstone Report.

The General Assembly quickly followed suit. The U.N. High Commissioner for Human Rights praised the Goldstone Report. Secretary-General Ban Ki-moon has promised to transmit the report to the U.N. Security Council, where only a U.S. veto stands in the way of further anti-Israel action. And the ICC prosecutor has announced that he is considering launching an investigation into Israel's conduct, even though Israel is not an ICC member state and has a robust, independent judiciary that is presently dealing with a number of cases raised.

These efforts to deny Israel its right of self-defense can—and will—be used to deny that same right to other free democracies, including the United States. Why do I say this? Well, the ICC prosecutor has already declared that he has jurisdiction over Afghanistan and is performing a preliminary investigation into U.S. and NATO operations in that country, which could lead to politically motivated prosecutions of American soldiers.

These are the stakes of the U.N.'s anti-Israel agenda. The "new era of engagement" and increased U.S. funding to the U.N. has not made a positive difference at all.

Mr. Speaker, it is time for the U.S. to use our strongest leverage, the billions of taxpayer dollars that we contribute to the U.N. every year. It is time to cut off funding to the U.N. until it produces real, effective reform.

In closing, Mr. Speaker, for our ally Israel, for our U.S. service men and women, and for the rights of free democracies everywhere, there is no time to lose.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### THE PROGRESSIVE MESSAGE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Minnesota (Mr. ELLISON) is recognized for 60 minutes as the designee of the majority leader.

Mr. ELLISON. Mr. Speaker, my name is Congressman KEITH ELLISON, and I am here to claim the time on behalf of the Progressive Message which comes to the American people every Thursday night to discuss critical issues and a progressive perspective on these same issues. The Progressive Message is put on and organized by Progressive Caucus members who happen to represent one of the largest caucuses in the Congress.

The purpose of this message is to focus on critical issues from a progressive perspective. That means a perspective that all Americans are welcome and included; that we need civil rights, human rights; we need economic justice for working people and working families; we need to address poverty; and we need to address peace in the world; the idea that America, a country blessed, could help bestow blessings on other people in the world through example and not through imposition; the idea that the United States, a country blessed, can help demonstrate through an example what human rights can do, what respect for the rule of law

can do, what respect for human rights, women's rights can do. The Progressive Caucus is an instrument through which progressive ideas are shared.

Tonight what we want to talk about, Mr. Speaker, is jobs. Absolutely that's the topic tonight. Jobs is what we will be talking about. I would like to hear from anyone who might be listening later on what their perspective is on the jobs picture and what we can do about it.

Mr. Speaker, the unemployment rate is 10.2 percent at this time. It could well climb higher by the end of the year. The fact is we have a jobs crisis, we have a jobs emergency, and we must do something about it now.

It's important to point out that as much as people who are unemployed need jobs, and they do, other people who are employed also need the unemployed to get jobs. It's important to bear in mind that when people are not working, their income goes down, their purchases at the store go down, their ability to consume and buy things that they need goes down, and if the store isn't selling, then the store can't put on more workers; they may even have to lay some off.

So this unemployment problem actually puts downward pressure on demand which puts other businesses who do have employees on the payroll in a position where they have to reconsider that.

Not only is the lack of a paycheck detrimental to the family that is not employed, but it also creates generational problems and it creates problems for the person who's unemployed, because when the economy turns around and they can get back in a position where they can maybe find that job, the employer is going to ask, Hey, what was going on with you over the last 3 years? Or 2 years? Or 6 months? And that hole in the resume has real consequences for that worker which may extend over the course of that person's lifetime.

Obviously, when unemployment is chronic and people are out of work for long stretches of time, their children sometimes are impacted by this and have to not only go with lower family income, which is obviously harmful to their development, but still are in a position where they have seen a parent go jobless for quite a long time which disadvantages them in terms of their ability to know how to access the job market and their hope, prospect and optimism as it relates to getting work. So unemployment is a problem, we've got to do something about it, and it is time to act.

Though the Democratic Caucus and Congress did not create the situation, and it certainly wasn't created overnight, it does need to be fixed very soon. Ten months of the new leadership of the White House cannot eclipse that of nearly 10 years of George Bush and the Republican Congress who bankrupted the public trust.

After nearly a decade of handing over middle-class tax dollars to the wealthy

est 1 percent, we've now got to take real action for working Americans. After nearly a decade of a policy that encouraged multimillion-dollar CEO bonuses over raises for American workers, we've got to do something about the job picture in America.

The economic policies of the last 10 years put President Obama and this Congress in a situation where it may not have been a situation of our making, but it is a problem that we have responsibility to correct. We're not going to say that, Yeah, we got handed two wars; yeah, we got handed hundreds of billions of dollars of debt, a crumbling infrastructure, a home mortgage foreclosure crisis—one out of eight mortgages is in default—a global climate crisis, and a financial sector ravaged by greed and lax regulation.

We're not going to rely on any excuse. We're going to get after the problem, and we're going to do it now. In short, the greatest economic and financial crisis since the Great Depression is visiting the American economy right now and people are feeling it, and it's time to do something about it.

This is why we are proposing, and I am proposing, and I am encouraging other people to support a jobs bill that would do a few things: American jobs. Invest in transportation and schools. Schools all over America are crumbling. Schools all over America have old pipes. Schools all over America are drafty and need windows replaced and the paint is peeling in many of them, not all of them but many of them. And any school teacher, any principal or any school kid can tell you that.

We need people to do the work. We have people who are willing to do the work, and we have things that need to be worked on. What we have to do is bring the two together: invest in transportation, including transit, urban transportation, light rail, and schools. This is an urgent problem, it needs fixing, and people need work. Let's pay them to do it.

State and local government relief. All over this country, States and cities and localities are having to cut back on services that they provide to their citizens. Governor Arnold Schwarzenegger has taken the public circle and said without the stimulus package, a hundred thousand teachers in California would be out of work. So that was an example of a good thing. But it's not nearly enough.

We need more to be done, because in this era and in this time, we see local governments having to lay off police officers, firefighters, public works people, teachers. We can't allow this to happen. State governments and local governments around the country are facing serious deficits and the Federal Government should step in to help.

We also need to strengthen safety nets. During times of economic downturn, there's greater pressure on our food shelves, greater pressure on our clothing shelves; and we need to understand that when unemployment runs

out, a lot of families are just left without. What are we going to do about it? We need to extend unemployment benefits, food stamps and programs like that; and I just want to let folks know that this is economically, from an economic standpoint, it's not just good work, it's not just charitable, it's not just the right thing to do.

It also is very, very important to stimulate the economy. Because when you give somebody food stamps, they take that and they go right to the store and they purchase groceries for their family. What does that do for the grocery store that is receiving that coupon that can redeem that for money? It's helping that grocery store. What is that doing for that grocer who is thinking about whether he or she has to lay off a few workers because people just aren't coming in and buying like they used to because the economy is down? Well, it helps them keep those people on the job. And if we do well enough, it might even actually help them add some people on the job.

What happens if that store has to lay off a few folks and we don't come through with some of these basics? What happens is they have to lay off some folks, and now you've got more people on unemployment insurance. If they can't find a job within the right amount of time, then those people are just without, and they are putting pressure on the food pantries and the food shelves and they're just really suffering. These things have a ripple effect.

What I am saying is if you can think of a coupon, a food stamp coupon, as not a piece of paper that can get you some food, think of it as a rock that you throw into a pond. I'm saying that that food stamp coupon and that unemployment insurance has a ripple effect that is very strong, and the multiplier effect of that is good because it gets right into the economy. It gets right into the economy to help people make their basic needs and also helps fuel the retail sector and then all the way back to the wholesale sector.

This is basically just a few things that we could do right now to alleviate real pain people are suffering all over this country. We've got to act, we've got to do something about it; and we cannot say that things that were done in the past, although a lot of bad decisions, economic decisions, were made over the last 8 years, and the Obama administration and this Congress are trying to fix it. We can't rely on that. We've got to do something about it now. The American people deserve answers, especially the people who have been chronically unemployed.

Today the White House is hosting, or has hosted already, an economic summit to discuss how to move the economy forward. This is good news. It's the President taking responsibility for dealing with the needs of Americans. I admire that tremendously. The fact is we do need more public jobs.

□ 1545

There's broad support and work moving to respond to the need for American jobs. I want to commend the Campaign for America's Future, the AFL-CIO, SEIU, and other labor organizations and groups that come together to help people, but also many employers and many small businesses who are out there concerned about employment.

This era that we're in, which I believe can fairly be called the "great recession," has wreaked havoc on American communities, as I just mentioned. And I just want to point out we face a period of extended unemployment if we don't act now.

Now, some people think, okay, the economy goes up and the economy goes down. But the fact is that the economy is a social institution, and unless people in society do something about it, the business cycle won't necessarily go up and include more jobs. We've got to do that. That's something that we need to work on. So we need to help small businesses get greater lending. We need to invest in public jobs. We need to invest in public infrastructure. We need to make these kinds of investments so that Americans can get back to work and the economy can get moving again.

Many of you watching television and watching the nightly business news may note that, well, Wall Street seems to be kind of moving in the right direction. That's good for them. But the fact is the average American worker is under tremendous anxiety because they know that they might be next. And as one former Republican President once said, a recession is when your neighbor's out of work; a depression is when you are out of work. And for 10.2 percent of American workers, this is a depression, and we need to get on that and deal with it right away.

Let me point out just a few other things. This has precedent in the United States. This is not something new for our country. We have stepped forward in the past. In fact, I was in my beautiful State of Minnesota after I enjoyed the great victory over the Chicago Bears by the Minnesota Vikings. And I went for a walk, and I saw that there was a picnic table that had written on it "WPA 1934." Americans in the past have stepped forward and dealt with American crises. In the 1930s and again in the 1970s we responded to extraordinary hardship by adding jobs, jobs, to the array of programs and services designed to help our people and to help the economy move out of recession.

The program that we envision today would provide work to the jobless and meet the needs in our communities by helping people meet their everyday needs and boost demand, which would help speed economic recovery. A new jobs program would be run by local elected officials who are closest to communities and best understand their needs. Local communities best understand the needs of the local community. So it wouldn't be Congress saying

this many jobs for Head Start, this many jobs for that. It would be Congress sending funds to State and local governments that then those local governments could use to determine what is needed. And, of course, there are a lot of things that are needed.

Some of the projects that are needed are paint and repair of schools, as I mentioned before. Peeling paint, community centers and libraries. You would be surprised what you might find if you went to a local library. You might find some local libraries are not in good repair. That's because they were built years and years ago and are in need of an upgrade.

We need to clean up abandoned and vacant properties to alleviate the blight that's been caused by the foreclosure crisis. As everyone knows, we went through a major foreclosure crisis, and it's not over. But what's the reality of this situation? The reality is you have abandoned houses which people could live in if these places were maintained and upgraded. But some of them have seen the copper stripped out. Some of them have seen the grass grow long. Some of them have seen the windows knocked out. Unemployed people could be hired to help maintain these properties through a jobs program. This is important all over the country. Even if you want to make sure that these buildings are secured and boarded until somebody can buy them, these are things that are important.

Remember, whenever there is a foreclosure on a property, two bad things happen. One is, somebody is out of their house, and those people are not paying property taxes like they used to in the past. But not only is the city not just getting property tax income anymore, the city now also has to pay out in order to maintain that property. So they don't just lose money, they actually now have an expense that they have to deal with when you have a foreclosure. That's why we need people to get employed to maintain these properties, and this is something that local communities might have to do with this money.

We need to expand emergency food programs and reduce hunger and promote family stability. Did you know, Mr. Speaker, that one in five children in America are in poverty? In America one in five children in poverty. Children of all colors, children of all cultures, children of all faiths. This is something our country has to respond to. And for so many of these children in poverty today in this massive recession we're in, these are children who may not have parents who are in a union, which would probably guarantee them a higher wage, and that's why I support unions, or our public employees like teachers and police officers.

Many of these folks are just the hard-working folks out there who keep the playground safe and clean, who keep the city in good repair. Folks who work at the Head Start and people who

do child care and people who do these tough jobs every single day. Some of these folks, they may not have a big degree or a big certificate, but they need to earn good money. They need to have a good job. And maybe that job is the one thing that could keep and lift that family out of poverty so that one of those children who is among the one in five in poverty won't have to be in poverty for too long.

We could augment staffing at Head Start, child care, early childhood education programs, senior centers, and promote school readiness and early literacy. We could renovate and enhance maintenance of parks, playgrounds and other public spaces, as I just said. The program we envision could place special emphasis on delivering job opportunities and needed services to low-income communities and communities of color suffering depression-level unemployment and distress.

Everybody in this economy is hurting. Well, not everybody. Some of these Wall Streeters are getting big bonuses. They're not hurting. But the rest of us are really fighting out here, and it's not easy. Small business owners, a lot of folks are getting hurt. But as nearly everybody is feeling the pain in this economy, it's important for us to remember that there are some folks who are feeling it even more painfully than the average. I want to point out that unemployment among African Americans in August was not the 15.2 percent that I mentioned for the general economy, but it was 15.7 percent. That's serious. A very serious problem. Unemployment for people who are of Hispanic background is 13.1 percent. If you're talking about young people, African American and Latino young people who are between the ages of 16 and 30, we're talking about unemployment upwards of 35 percent.

So we've got to do something in these chronically marginalized communities where people are just left out there and are often a second thought when we form public policy to address serious issues. We've got to deal with this. And that's why we need a program, yes, to build up infrastructure. Let's get those union guys back out there on the field making our roads, making our infrastructure, building those things up. And absolutely let's get those public employees back in. Let's not let the teachers and the cops get laid off. But let's not forget about that young teenager of color who is out there without any prospect. We don't want young people turning in the wrong direction; we want them staying in the right direction.

While I mentioned statistics for African American and Hispanic young people, don't think for a minute that young white people in rural communities and even in urban communities are not having elevated unemployment rates as well. The youth are being unemployed at higher rates than other people regardless of background, and we've got to step up and do something

about it. And we can do something about it. We still have over \$200 billion of TARP money and stimulus dollars, and these need, I think, to be directed to employment programs similar to what we did in the 1930s and in the 1970s when Americans were out of work.

I want to say that, yes, it's true that one in five, or about 20 percent, of all young people in America are living in poverty, but one in three African American young people are living in poverty. A serious issue. Their parents need work, and we've got to do something about it. If we act quickly, a jobs program like this could put hundreds of thousands of people of various skill levels to work during the next year, 2010, and will continue to provide job opportunities for several years as our economy recovers. People paying taxes, which can help lower the deficit. People who are paying child support or are just paying the monthly expenses of their family. This is all very important. The time to act is now. I propose, and I think we should all support, a program that could create 1 million American jobs in very short order if we put about \$40 billion into it.

The time to act is now, to make that investment. We need to make this investment if we want to lower the deficit. We need to make this investment if we want to increase demand. We need to make this investment if we want to keep people from being chronically unemployed.

Let me now turn to another important part of what I believe any job recovery program must include, and that is the need for critical infrastructure development. I have been talking about lower-wage workers so far. Now I want to talk a little bit about infrastructure development. Do you know that if you look across America, you look across the roads and you look across the bridges, you look across transit and you look across some of these aging sewer lines and even fiber optic, and if you look at the needs of rural communities across America who need to get wired in on broadband, we're looking at well over about \$3 trillion of infrastructure needs in our country.

And the beautiful thing about spending this kind of money to invest in American infrastructure is that it stays here. These are not jobs that are going abroad. These are going to be American jobs because you can't lay fiber-optic cable in America in some other country. It's going to be here. That person's going to be paid here. That person's going to be employed here. And that money is going to go into the United States and be funneled back to Americans. This is important to understand—that infrastructure investment is critical to lifting our economy out of this very difficult economic situation, and we have to do it anyway.

I'm very excited about this idea of investing in infrastructure in broadband in rural communities. You know that it was in the 1930s when visionary po-

litical leaders like Franklin Delano Roosevelt said, You know what, there's no reason why rural America should be in the dark. Rural electrification, an idea conceived when the United States was in a depression. Now, some people who think that bold action could only be taken when things are good economically, they have to contend with the fact that bold action was taken when we had a depression in the 1930s, bold action like rural electrification. And what rural electrification did was it brightened up rural communities all over the United States. We put up the telephone lines all across this country so that you could flick on a light in rural America.

What it did was it absolutely improved the economic viability of rural America. People no longer had to move into the crowded city when they could do their business in the electrified rural areas. This is important to bear in mind. It's critical to bear in mind that critical jobs in infrastructure have been built in America even during times of economic downturn. Very important.

Community infrastructure programs creating over a million jobs, a million jobs at the community and neighborhood level, is what we need now. We need these kinds of programs so we can create immediate opportunity, so we could create infrastructure.

I just want to tell you I'm from the city of Minneapolis, and from my great city of Minneapolis, we had on August 4, 2007, a bridge collapse into the Mississippi River. Thirteen Minneapolitans died and a hundred had injuries like spinal cord injuries as they fell 65 feet from the bridge to the water. Now, at the end of the day, this crisis and this tragedy occurred because we did not maintain that infrastructure well enough. Now, I'm not saying it's anybody's fault. I'm sure everybody did the best they could. But the fact is if we would have had a stronger infrastructure commitment that would make bridges around this country a priority to repair and to fix and to rebuild, this tragedy may not have happened. But it did happen.

□ 1600

But it did happen, and so we put out a clarion call for infrastructure development in our country. And I say, we need to do this anyway. We need to develop infrastructure so we can avoid horrible tragedies like the one that happened in my city. But more importantly, or as importantly, we need to do it now to put Americans back to work.

During the first 6 to 9 months, if we can pass a good, solid community infrastructure program, the program could develop a fast track for jobs. Projects could be limited to certain activities such as key priorities. And within a short amount of time, we could see these infrastructure developments paying great dividends for Americans.



You know, I want to talk to you about some of the things that we have been seeing in our economy that really do cause a tremendous amount of pause, and I think it is something that we need to really, really pay some close attention to. These are trends in our economy that I just feel that we need to pay some greater attention to, and this is not in a way of just describing what we should do, but it is kind of talking about what we have done.

In the course of the last few weeks, we have seen people be highly critical of the stimulus package. I think we need to take a look back at what the stimulus package did. Some people, because it has not stopped the increase in unemployment, say that it didn't work. I say this is an incorrect analysis. I believe the Recovery Act has actually helped a lot of people stay employed and actually stopped this economic crisis from getting worse and slowed the rate of unemployment. But we need to do more. But let's just say what the Recovery Act did do.

The Recovery Act created over a million jobs. That's what it did do. It created over 250,000 education jobs. As I said, it was Governor Arnold Schwarzenegger who said that but for the stimulus, over 100,000 teachers would be out of work. Thirty thousand jobs were created or saved by businesses that have received Federal contracts from just a small fraction of the Recovery Act. That is very important.

Let me say that half a million homeowners have signed up for foreclosure prevention programs, reaching an important early goal. And the program that was launched last March aimed to help these half a million borrowers by November 1, with the ultimate goal of helping 4 million borrowers before it expires.

Here is a number for you. The Dow Jones industrial average surged to over 10,000, passing the 10,000 point level much faster than expected and racking up a 53 percent gain in the last 7 months. That is an improvement in the economy that has helped some but has not helped enough. But it just shows that if we do invest in our economy, it does help. It improves the lives of people. It is not money that we shouldn't have spent. Things would be much worse if we didn't spend that stimulus money and make those important public sector investments.

The number of road and bridge projects already approved under the Recovery Act, which creates jobs, is 8,000. The number of roads and bridges projects, 8,000 roads and bridges projects already underway because of the stimulus. And the percentage of spending that is now obligated under the Recovery Act, this money in the pipeline ready to be spent is about half, and this 50 percent mark exceeds the Congressional Budget Office's initial projection for the program, showing that investment is going out quickly to help boost the economy right away.

But still we have a job crisis, and still we have to do something about

this jobs crisis. And let me tell you a little more about how the Recovery Act has fared so far, because there has been a lot of disinformation about the Recovery Act. A lot of people have said that the President said it was going to stop unemployment at 8 percent, and it went up by 2 more percent. Leading economists say it would be 12 percent if the Recovery Act were not put in place. So let me just talk a little bit more about what this economic recovery has done, economic stimulus has done so far, and make a case for what more needs to be done.

A recent report from the Council of Economic Advisers shows that the Recovery Act and other policy actions have saved or created over a million jobs while only about a quarter of the Recovery Act spending has been able to get into the economy. But many projects are in the pipeline and are on their way. The report, this report by the Council of Economic Advisers, estimates that the Recovery Act has had particularly strong effects in manufacturing, construction, retail trade, and temporary employment services. The employment effects are distributed across States with larger effects in States more severely impacted. So States like Michigan, Ohio, even my own State of Minnesota, but others as well, are getting this important economic recovery money so that we can turn our economy around.

According to Jared Bernstein, who is the chief economist, Office of the Vice President, "All signs—from the private estimates to this fragmentary data—point to the conclusion that the Recovery Act did indeed create or save about 1 million jobs in its first 7 months, a much needed lift in a very difficult period for our economy," which is something that I think we must pay attention to and cannot ignore.

I just want to talk a little more about the success of the Recovery Act, not that it has completely succeeded. We would like to see unemployment headed down, not just the rate of unemployment slow down. But just to make sure that we understand that providing economic fiscal stimulus does help our economy, it is important to review the facts.

The Recovery Accountability and Transparency Board—and as you know, we didn't just spend money out, we got a transparency board to look at it all—released its first report on the portion of the Recovery Act spending that shows that recipients have reported that so far, the act is helping to get Americans back to work. As I said, Mark Zandi of Moody's Economics said 2 percent, we would have 2 percent greater unemployment but for the Recovery Act which is so important.

According to this report issued by the Recovery Accountability and Transparency Board, the act shows that businesses that received Federal contracts from stimulus spending reported creating or saving about 30,000 jobs. The board released a more exten-

sive report last month, which I will get to in a moment.

Now, I would like to talk a little bit now and just move on about this unemployment figure. I brought a graph with me that I would like to share with you, Mr. Speaker, and just show folks what we are looking at.

It is important that we talk about creating these jobs, as I just mentioned, the economic recovery and jobs that we are creating or working on. What this chart shows is that part of our strategy for job creation must be infrastructure, as I mentioned, and must also be creating public sector, public works jobs, which is important. But a third aspect is clean energy and green jobs. This is the visionary, forward-looking kind of job proposal that we need to pay attention to.

Investing \$150 billion in clean energy will create a net gain of 1 million jobs and improve opportunities for low-income families. These are jobs for the future. These are jobs for the next period. These are jobs for now and into the future. Clean energy jobs. Clean energy jobs created, 2,500 to 10,000 jobs across America, places in rural areas. And 10,000 to 50,000 jobs in these more darkly shaded areas where people live, sparser population but people need to work, and more than 50,000 jobs in the darkly shaded areas. As you can see, these are our industrial manufacturing sectors, places like Indiana, Michigan, and places like Illinois and Ohio, Pennsylvania, New York, Georgia, South Carolina, places like Florida, Texas, and California. This is a very important chart because a part of our conversation must revolve around what our job strategy is and what we expect to do in this period to create jobs for Americans.

You know, the thing is that jobs, having a job is one of the most important things that any person can do. A job is not just income, but a job also gives you pride and dignity. A job also is something that allows you to feel that you are making a contribution to society. A job. A job is something that you can go to and you can come home and look your kids in the eye and say, you know what, I put in, I am productive. This is what I have done to help you and to help our society be better.

It is important to do something about the millions of unemployed today, the people who are in the ranks of that 10.2 percent of unemployed, the people who are among the ranks of the 34 percent of minority teenagers and young adults who are unemployed. Those children, 1 in 5 children in America in poverty, 1 in 3 African American children in poverty in America today, below the poverty line, we can do something about it, and the time to do something about it is now. We cannot sit idly by while our fellow Americans are in an economic malaise. We have to have ideas that are designed to work, and we have to remember what has worked in the past, and we can't be afraid to reach for what can work now.

The fact is that we are asking Americans, Mr. Speaker, to step forward and support a real jobs package, one that will work, one that is new and innovative for green jobs, one that preserves and improves our infrastructure, and one that puts people to work and one that keeps State and local governments from having to lay off public employees. These programs will work. We need to do something for small businesses who are often the biggest job generators of all, and we need to do it now.

Mr. Speaker, I just want to say that this has been another hour of the Progressive message, another hour of the Progressive Caucus. Our email is [cpc.grijalva.house.gov](mailto:cpc.grijalva.house.gov). We want to hear from the public, Mr. Speaker. We want to know what is on the public's mind, and we want to know how people are feeling. And we just want to remind people of the importance of the dignity of work and the obligation and responsibility of Americans who are in Congress to do something about this dismal job picture out there. I want to let the people know, Mr. Speaker, that we hear them. I want them to know that we haven't forgotten them, and I want to let them know that we are here to do something about the very difficult circumstances that people are facing.

So this will conclude the Progressive hour and the Progressive message. We will see you next week. Happy holidays, and enjoy.

□ 1615

#### WHERE ARE THE JOBS?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Oregon (Mr. WALDEN) is recognized for 60 minutes as the designee of the minority leader.

Mr. WALDEN. Mr. Speaker, Republicans come to you today to talk about some of the same things that my colleague who just finished was talking about, but we are going to try and live it up a little bit. Because, you see, the Democrats have controlled the Congress for the last 3 years, not the last 10 months or 11 months, but the last 3 years. But in the last 11 months, Americans have lost 2.9 million jobs.

You see, they passed this so-called stimulus, and they rammed it through in record time. It is one of those thousand-page bills that probably nobody had a chance to read before it got voted on, and then they passed it. The theory was that if they passed it into law, that unemployment wouldn't top out over 8 percent. That was their promise. That's what the Democrats promised, was pass the stimulus and it will solve unemployment. It will be no more than 8 percent. In fact, that's what their Department of Labor, the Obama Department of Labor, said right here, you can see it, Obama forecast with stimulus, right here is where unemployment would be. This is without the stimulus

where unemployment would be at this point. These were their numbers. This is what they promised the American people. This is what they said.

Now, let's look at what really happened, however. Unemployment started out here in January of this year, 2009, whoa, up it goes. How high, nobody knows, but it goes on up and up and up over 10 percent, over 10 percent. Now who is benefiting from that? Well, let's, first of all, look at The Washington Post today. And right here on The Washington Post newspaper here in the Nation's Capital the top story is: "Stimulus is Boon for D.C. Area Contractors." Federal Departments are paying firms to help spend the money.

And let me read Alec MacGillis' story here. It says: "As struggling communities throughout the country wait for more help from the \$787 billion stimulus package, one region is already basking in its largess: the government-contractor nexus that is metropolitan Washington, D.C." That's right. Come on down. You are the winner, Washington, D.C. Once again, the Federal Government is the winner.

"Reports from stimulus recipients show that a sizable sum has gone to Federal contractors in the Washington area who are helping implement the initiative—in effect, they are being paid a hefty slice of the money to help spend the rest of it."

Now, if you want jobs for Washington, D.C.-based government contractors, I don't see how that is sustainable, helpful or even what was promised. And for heaven's sakes, we can see the red line here is not getting lower; it's getting higher. In fact, as I look at this, we would have been better off under the President's proposal, the Democrats' plan on the stimulus to have had no stimulus at all if you look at what they predicted versus what reality is.

But here is the best part. If you want to talk about helping rural areas, one of these people that has been involved in the government here tells The Post the reason all this money is being spent back here in the Washington, D.C. area is, she says, I'm not sure I ever heard of a government support contractor in Michigan.

Well, maybe that is part of the problem. Maybe if we had some of this actually flowing out to people who need the help and not into more government, things would be better.

So where is the money going? And where are the jobs? Now, we know that on February 25 in an interview with ABC's "Good Morning America" s Robin Roberts, our Vice President of the United States, JOE BIDEN, said: "We've got to make sure this is done by the numbers, man. We've got to make sure people know where the money is going. This cannot be squandered. We have an opportunity to get the Nation back to work and back on its feet, and the first piece of that is generating some economic growth here, and we have to do it right."

Now that was February 25. Now, again, here is where they said we would be without the stimulus. Here is where they said we would be with the stimulus. Here's where we are. Here's where we are. And my colleague who spoke earlier about the horrible problem of unemployment—and it is—my home State of Oregon has suffered mightily. But this stimulus hasn't produced jobs out there. It may have produced them to contractors back here, but not out there.

So where are the jobs? And where is the money going? We were promised, the American taxpayers, when we borrowed all this money from China, we were promised that we would know, by golly, this is going to be accounted for. Everybody is going to know. Everybody is going to know. In fact, in a speech on the stimulus at the Brookings Institution on September 3 of this year, the Vice President, JOE BIDEN, said: "Everybody has to account for the money they got beginning October 1. It's going to go up on a big old Web site. We've got a new modern Web site that is going to blow you away in terms of how detailed it is."

So, here is the Vice President. He says, first of all, we've got to make sure this is done by the numbers, man. We've got to make sure people know where the money is going. It can't be squandered. We have an opportunity to get the Nation back to work and on its feet, and the first piece of that is generating some economic growth here, and we have to do it right. And then he said, we're going to track it all. We have a new modern Web site that is going to blow you away. Everybody has to account for the money. They have got to get that, beginning October 1, going to go up on a big old Web site. We've got a new modern Web site that's going to blow you away in terms of how detailed it is.

Well, now, here is a guy who knows what happens with Federal money. You all know Lesko. You've seen him on TV. He says, free government money. Buy my CD. Buy my book. Get the free government money. You would think that even Lesko could track where the money goes.

So, let's look at what happened to some of the money, because I think Americans are asking, where's all this money going, \$787 billion? Where did the money go?

Let's see, in Louisiana, the New Orleans Times Picayune newspaper says Louisiana has seven congressional districts. So Louisianans visiting [recovery.gov](http://recovery.gov), that's the Web site that the Vice President said will blow you away with its detail, might find themselves not just a little skeptical, but truly puzzled to see that nearly \$5 billion was listed as headed to Louisiana's Eighth Congressional District, \$2.8 million to the 22nd District, \$1.8 million to the 12th Congressional District, and lesser amounts to the 26th, the 45th, the 14th, the 32nd and even the double 0 district.

Now let me go back. The 26th district? The 45th district, the 14th, the 32nd, the double ought. There are only seven, count them, seven congressional districts in Louisiana. And yet the Web site that the Vice President touted as really going to blow us away, it lists all these grants, all your money going to districts that don't even exist.

So the Times Picayune asked Ed Pound, who is the director of communications for recovery.gov, this is the fancy Web site that JOE BIDEN said is just going to blow us all away, and, boy, it has, they asked Ed, okay, you're the communications director for this fancy new Web site that's going to detail everything. How does all this work? This is the great accountability model of the transparency of the Democrats. He says, Oh, we rely on self-reporting by recipients for the stimulus money.

So Pound said the information from federalreporting.gov is then simply transferred to recovery.gov, and no one, get this, no one checks to verify its accuracy or to take note of the fact that Utah—here is another example—really doesn't have seven congressional districts. Utah has three congressional districts. South Dakota, well, they had a 10th Congressional District in South Dakota, but you see, folks, South Dakota only has one, count them, one—you don't even have to take your shoes off—one congressional district. Louisiana doesn't have 15 congressional districts. It has seven. So even Lesko here could know.

We will get back to Lesko here on some examples of some of that "free money" that went out.

In my home State of Oregon, we have actually five, count them on one hand here, five congressional districts. That is one, two, three, four, five. And yet on this fancy new Web site that is supposed to track all this, news media organizations looked and said, wait a minute, there isn't a double 0 district in Oregon or a 14th or an 8th or a 16th or a 60th or 21st. And this is transparency and accountability in a record amount of money that's being spent?

Now, frankly, being an Oregonian and having only five districts, I kind of like the notion that we are going to add congressional districts. Now even the people that don't live there, because there aren't that many, probably wonder about it, but that would give us a little more clout here in the Congress. That would be okay with me. Except you're talking about taxpayers' money here. And it is not creating jobs.

Now, Pound went on to say: "We are not certifying the accuracy of the information." So you have the Vice President who is telling us, man, this Web site is going to blow you away. We've got to make sure people know where the money is going. Everybody has to be accountable.

This is accountability?

Oh, by the way, these are the folks, this is the same government that is

going to take over your health care and take over energy production, and they can't even manage a guest list for a dinner party at the White House? This is what we are getting, folks, with too much government.

We know what the problem is, according to Pound, and we are trying to fix it. Asked why recipients would pluck random numbers like 26, 45, or 14 to fill in for their congressional district, the communications director replied: "Who knows, man? Who really knows?" That was his answer. "There are 130,000 reports out there," he said. Okay. So we have an issue with reporting.

Now let's go back to our friend Lesko, because everybody knows him. Anybody that watches TV will see Lesko show up. And he says, where is the government money? There's lots of free government money. Get my CD, buy it, and you can get government money. Well, Talladega County, Alabama, now here they reported that they saved or created, this is frugal now, 5,000 jobs from only \$42,000 in stimulus money. Now, I was a journalism major, not a math major, but 5,000 jobs from \$42,000, that's \$8.40 a job. This is a record. No, but wait. It gets better. The Belmont Metropolitan Housing Authority in Ohio reported 16,120 jobs saved or created from \$1.3 million in stimulus funds from HUD. That's \$80.46 per job.

But the winner, the Lesko winner for efficiency in creation of jobs, goes to Shelton State Community College in Alabama: 14,500 jobs saved or created with \$27,000 from the GAO. That is \$1.86 per job. Now that's a bargain.

Alkan Builders of Alaska reported 3,000 jobs created or saved from 11 million, \$3,666 a job. You can see why these aren't real jobs that are being created. It's not even being reported accurately. And yet we are saddling our kids with this enormous debt.

So, let's look at a few other examples. Earl E. Devaney, the top monitor of the stimulus in the Obama administration "acknowledged that he too found dubious the 640,000 jobs figure touted by the Obama administration as proof the stimulus was working and that there were too many errors in the reporting of data to accurately offer that estimate." Now, he is the one who actually is the watchdog. And that's what he told The New York Times.

Now, how many Americans does it take to fill an \$890 shoe order? According to The Wall Street Journal, November 19, on the recovery.gov site, an \$890 shoe order for the Army Corps of Engineers created nine new jobs at Moore's Shoes and Service in Kentucky. Really. Head Start in Augusta, Georgia, they claimed they created 317 jobs with a \$790,000 grant. Now I happen to be a supporter of Head Start, but it is this reporting issue and whether you're actually creating sustainable jobs. Actually, the money went to pay hikes for 317 workers. That would be a bonus of \$2,500 per employee.

So you see, Republicans stand up here, and we hear our colleagues on the other side of the aisle saying we need a new jobs summit. We need an economic stimulus. We need Economic Stimulus II because we got to help people get back to work. And Lord knows we do. But that is what they said the last time. And they've been in charge for 3 years around these Halls, and we've never had greater debt, more government takeover and more to come, and record unemployment.

We are looking at a 10.2 percent unemployment. It has not gone down since they enacted their proposal. It has gone up, up, up, up, up, up. And Americans are paying the price. And our kids and grandkids are going to pay the price on debt.

Now, how about that Alabama housing authority claimed a \$540,071 grant would create 7,280 jobs? That's what they reported, 7,280 jobs. It created 14 at best. Fourteen at best.

□ 1630

Now, you go back to these congressional districts that have been identified here that don't exist. You remember back to the New Deal when President Roosevelt wanted to increase the Supreme Court from 7 to 9 members so that he could get a majority. Well, it appears this administration takes it one step further, forgetting to add the two more justices. Let's just add, I'm not kidding—let's just add 25 districts, maybe make it 50 new congressional districts, because that's what you would think happened here when this is your reporting. Far from accountable. And this is big stuff. We make a little light of this today perhaps, but this is big stuff because this is debt. This isn't like you have money in your checking account to spend. This is like you went to the bank and borrowed this money and shoved it out the door in record time, and you don't even know where it went.

I mean, I suppose Lesko's going to come out with a new DVD soon that says, Ask the government for free money and I'll tell you where it went. We found out. It's gone. Now, I just don't know, and in the next stimulus bill, are we going to create like whole new States? Maybe that's what we should do. When we're done creating new congressional districts, we can go to new States. Why stop at 50? You know, you like Massachusetts, you'll love New Massachusetts. Minnesota? How about South Minnesota or North Minnesota? Let's go for it. East Minnesota. Six little Mini-Me Al Franken running around and voting for new job grants to States that don't exist and congressional districts that don't exist.

And if we created 100,000 new jobs, who can find the voters to say we didn't? They'll love us in West St. Paul and New Duluth. And don't worry, we'll find the voters in South Minnesota to say thanks for the jobs. I mean, this is crazy. I mean, this is just crazy where it's going. I mean, this chart, I think,

and I see I've been joined by my friend and colleague from Ohio, Mr. LATOURETTE. But this is a report that came out in a newspaper here, *The Examiner*, inflated jobs by State. And it shows, you know, a drainage ditch number one and I don't know what all these are. But they show these inflated job numbers. I would yield to my colleague, Mr. LATOURETTE, from Ohio.

Mr. LATOURETTE. Well I thank my friend from Oregon for yielding. And, in fact, that is a representation, and most people will recognize the United States of America. And each of the pushpins represents an area where the administration has reported jobs being created or saved. And it's kind of interesting, saved is a tough thing to analyze. And I'm going to talk about that in just a second. But created or saved. And each of those pushpins represents either a fictional place that didn't exist, as the gentleman's been talking about, or where the jobs that are claimed on *recovery.gov*, were, in fact, not created and/or saved. I just want to digress if you let me for just a second though because, you know, the gentleman's pointed out that, in 2006, the Republican majority had done such a bang-up job that it was replaced by a new Democratic majority, and it became historic in that we have the first woman Speaker in the history of the country, Mrs. PELOSI.

And so for 3 years they have been basically directing how the legislative process in the House of Representatives works or doesn't work. And we have been saying on our side of the aisle for a pretty long time now, when we go back, when I go back to Ohio, I assume when the gentleman goes back to Oregon, people are saying, where are the jobs? Why don't we have any jobs? You gave \$700 billion to the banks to lend money. They're not lending money. You created and passed an almost \$800 billion stimulus bill to create jobs, and there aren't any jobs. And I think that they rightly ask, what is it that the Congress, this Democratic majority, has been doing with themselves to help stimulate the economy and create jobs?

I have a chart here that I like to use, and I want to be fair to them because they do have a rejoinder. But at the beginning of this year you had the Democrats in the majority in the House, Democrats in the majority in the Senate. And of course the President of the United States, President Barack Obama, was inaugurated on January 20. And this shows just through March of this year how the unemployment rate has increased. And the gentleman will recall that we were told that we had to pass this \$800 billion stimulus bill or else unemployment would hit 8 percent. And now it's over 10 percent. If you look at the construction trades, the people that build buildings, roads and bridges and other things, it's 18 percent; 18 percent of the people that work construction in this country are currently out of work.

But just taking what—we'll get to the stimulus bill and the President's participation in a minute—but just what our Democratic colleagues have been thinking have been the most important issues facing the country, as this unemployment rate now has spiked to 10 percent. On the opening day of this Congress, which was January the 6th, you had kind of a modest, unemployment rate. Out here on January 20th you have unemployment is increasing. But then you get out here to, towards the end of January, the beginning of February, and again, when Americans by the thousands and tens of thousands are losing their jobs, the most important thing that the majority here in the House could put on the floor was a resolution supporting the goals and ideals of national teen dating.

Mr. WALDEN. Say that again.

Mr. LATOURETTE. National teen dating. You know, when people are losing their jobs in steel mills and auto manufacturing plants, the House of Representatives is talking about the importance of teen dating. Now, I'm the father of some teenagers, and I want teen dating to go smoothly. But more importantly, I really want the people that I represent to have jobs so that their teenagers can afford to go to school and buy things and eat food and things like that. Well, unemployment continued to spike. And now we get in the middle of February. The President now has been installed only for a month, and so we certainly can't criticize him at this moment in time. But again, as unemployment rises, the most important thing that this majority could bring to the floor, and people have to recognize, bills only come to the floor when the majority says they come to the floor. So what we did on that day was commend Sam Bradford for winning the Heisman trophy. And again, just like teen dating, I'm sure that the Bradford family's very proud of Sam, and I think it's quite an accomplishment to win the Heisman trophy. But again, tens of thousands of people are losing jobs.

So now we get out towards the end of February, people continue to lose their jobs. Every jobs report that comes out, it's hundreds of thousands of people are being displaced and out of work. And so surely, at this moment in time, you know, with complete control of the government, you would think we would be doing a jobs bill. But the most important thing that they could come up with was the Monkey Safety Act, to debate the Monkey Safety Act here in the House of Representatives.

Mr. WALDEN. That sounds like real monkey business.

Mr. LATOURETTE. And I want to be clear because when I mentioned this earlier, the Humane Society got upset with me. I'm not saying that this is a bad piece of legislation. But what I'm saying is, for crying out loud, when people want to know where the jobs are, why are we debating the Monkey

Safety Act? I don't get it. But you get down into March now. And so again, hundreds of thousands of people are out of work. And you would say, surely, we're going to talk about a jobs piece of legislation in the House of Representatives. But when we get into March, the most important thing that they could come up with was the Shark Conservation Act. And, again, I like sharks. I don't like to swim with sharks, but sharks are nice to watch on television. But, again, where are the jobs, and where's the legislation?

And then we get out to where this chart ends at the end of March. I'm working on a new one that'll take us to where we are today. But you get out and, again, bad jobs report, tens of thousands more people have lost their jobs. And the most important thing that the majority leader could put on the floor was supporting pi.

Mr. WALDEN. Supporting pie?

Mr. LATOURETTE. Supporting Pi Day.

Mr. WALDEN. Apple pie or cherry?

Mr. LATOURETTE. No, it's not P-I-E, which as you can tell from my girth, I enjoy pie. This is pi, the math formula, 3.14 or whatever it is. And we needed to recognize the importance of the number 3.14, rather than dealing with the people that are out of work in this country. So then, you know, to be fair to the majority, they will say, well, wait a minute. That's not all we did. We also passed the stimulus bill. And the stimulus bill, just south of \$800 billion, and it was advertised as creating 3 million new jobs across country. It's now been in place for about 9, 10 months, and my constituents, at least, are continuing to ask, where are the jobs?

And I think the gentleman has correctly pointed out that not only have the jobs not materialized, because they have not gone to job-creating activities; instead, and on top of that, they continue to issue press releases taking credit for jobs saved or created. I can just tell the gentleman, in my district, and here's under the heading of "press releases I would never send out," I represent the 14th District of Ohio. The White House sent out a press release saying that they had spent \$100 million in the 14th District of Ohio of stimulus money to create or save jobs. And I guess I'd ask the gentleman, you know, so that sounds like a lot of money. It is a lot of money. It's borrowed money, as the gentleman said. But then in the next sentence they say how many jobs they created and/or saved. Does the gentleman care to guess what we got for \$100 million in my Congressional district?

Mr. WALDEN. You could write a million-dollar check and get 100. I mean we could make 100 millionaires out of that. So maybe 1,000?

Mr. LATOURETTE. I'm sorry. It was 126. And so, again, with a straight face—

Mr. WALDEN. So we could have written a check and made nearly a hundred millionaires.

Mr. LATOURETTE. No. What we could have done is everybody could have gotten maybe \$800,000. But, no, the problem is as I go about the district, nobody knows where those jobs are. And I think, you know, the gentleman's talked about not only the difficulty of false claims of jobs, but jobs that have gone to places that don't exist. In Ohio—the gentleman's talked about Oregon—in Ohio, there was \$7,960, not billions, but still a lot of money, if you're paying taxes, for a basketball system replacement in Ohio. And they claim that as a result of that, they created three jobs. Now that's a little bit better than the hundred million, because that's only a couple \$3,000 a job. The problem, and basically, it was a grant to repair a basketball court in a park in Cincinnati, Ohio. But it was identified as Ohio's 0 district. Now, we have 18 districts.

Mr. WALDEN. We have one of those in Oregon. Actually ours was double 00.

Mr. LATOURETTE. Well, we have Ohio 0. And I'm sure that next fall in 2010 the Republican and the Democrat running in Ohio 0 are going to have a very tough race because nobody's going to be able to figure out where it is, because it—

Mr. WALDEN. No, they can go to recovery.gov. By then they'll know the district. And it's going to be well-jobbed.

Mr. LATOURETTE. So we clearly have some difficulties. I know the gentleman, if the gentleman's talked about this, I apologize. But down in Texas, this fellow who runs a public housing authority got \$26,000. But if you go to the Web site, it says that they reported creating 450 jobs, which is pretty—

Mr. WALDEN. What?

Mr. LATOURETTE. 450 jobs for \$26,000, which is pretty good. I mean, that's about \$500 a job. The problem is when they contacted this fellow, whose name is Bob Bray, he said, Boy that's great. You did a great job with that 26 grand, creating 450 jobs. He says, oh, no, no, no, no, no. He told the government that he had created six jobs, basically five roofers and a fellow to inspect it. But when he was asked to do some reporting, they said, well, that's not enough jobs. And so the 450 doesn't represent jobs, it represents the hours that these six people worked to replace the roof. So we really didn't get a whole lot for that \$26,000.

Mr. WALDEN. And even if it's six jobs, how long did those last?

Mr. LATOURETTE. Well, for 450 hours. It was for 450 hours, all six of them. You know, it's a couple weeks work is what you're talking about.

Mr. WALDEN. So it's not like a permanent sustainable job that'll get us into a recovery that goes forward. I mean it replaced a roof, and roofs have to be replaced.

Mr. LATOURETTE. I'm sure with the rainy season coming, I'm sure they're all nice and dry down there in Texas. But the fact of the matter is they put

a new roof on, and now those people, I would assume, are unemployed or fixing roofs somewhere else. So clearly, this is a problem.

Mr. WALDEN. Now, you know, the University of Massachusetts got a grant—you're aware of this one—for \$95,000 to study pollen samples from the Viking era in Iceland. Now, I'm not making this up. It's there. You can find it. \$95,000, the University of Massachusetts studied pollen samples from the Viking era. You want to study pollen from the Viking era, an old sample of the Viking era? Just have Brett Favre sneeze. You know, that's an old Viking. We can do that. Save the \$95,000. Maybe this will make good, like 1:30 in the morning, Discovery or Science Channel reporting, you know. We investigated old Viking pollen from Iceland. And we created jobs—95,000 of your tax dollars. We've been joined, Mr. LATOURETTE, if I could, by Mr. SCALISE here from Louisiana. We're glad to have you join us today and share your comments to our colleagues, and we may even go back and forth here with our colleague from Ohio.

Mr. SCALISE. Well, I want to thank my friends that are talking about this important subject because, you know, when I go home, people want to know the same things that you've been talking about. They want to know where are the jobs. They surely don't want the government getting involved in all of these areas of our lives that the government doesn't belong. And even more importantly, they don't want the government going off on these wild spending sprees, spending money that we don't have. And so they look at the record of this administration since President Obama came in in January, and they recognize that right after President Obama came in, he had this great idea that he was going to have this stimulus bill. And he said, we're going to make sure that unemployment doesn't go over 8 percent.

Mr. WALDEN. That would be this chart here.

Mr. SCALISE. And the chart that you show that shows the lofty goals, the lofty promises. And in fact, those of us who actually want to fix the real problems, want to solve the problems in our country, we met with the President. We said, Mr. President, we've got some ideas on how to create jobs, because we agree, our economy should be focusing on creating jobs. And we actually laid out a recovery plan that the Congressional Budget Office scored that would create way more jobs than they projected to score and a whole lot less money than they were projecting to spend.

□ 1645

Of course the President discarded our ideas. He went around the country telling people that we were just the party of "no," failed to mention that we actually had a solid plan that is still as solid today. So he just put his blinders on and said, We don't want Repub-

licans. We just want to go on a wild spending spree. Unfortunately, the President got his way.

And Speaker PELOSI rammed the bill through the House, HARRY REID rammed the bill through the Senate, and they spent \$787 billion of our children and grandchildren's money—money that we don't have—claiming we need to do this because this was going to stop unemployment from reaching 8 percent and it was going to create 3 million jobs.

And then he stood here, right behind you, here on this House floor, right at that podium I'm looking at right there. President Obama said, We're going to track every dime, and JOE BIDEN, Vice President JOE BIDEN is going to be in charge of tracking every dime because nobody messes with JOE. That is what the President said. Nobody messes with JOE.

Mr. WALDEN. Nobody messes with JOE.

Mr. SCALISE. And so of course, we decide to take President Obama up on his claims, and as Americans for months and months later, after they then came with a budget that doubled the national debt in 5 years, and then they turned around with another bill called the cap-and-trade energy tax, a national tax on energy.

Then they came back with this government takeover of health care that they're still pursuing. All of this, running jobs out of our country at a time when Americans want us to be creating jobs.

And so now that unemployment has exceeded 10 percent, people are not only asking where are the jobs, they're saying, What did you do with all of that money that you spent.

And so we started digging in deeper, and what we found out is, as you were talking about, we found out in Louisiana, there were more jobs created in Louisiana's Eighth Congressional District, according to the White House, by the stimulus bill than were created in my First Congressional District that I represent.

Mr. WALDEN. So what's the point?

Mr. SCALISE. So if you lived in the Eighth Congressional District and you're hearing all of these jobs that were created with taxpayer money that we don't have, that was borrowed from our children and grandchildren, you might be going, Well, I want to see what those jobs were. Of course people in Louisiana know, there is no Eighth Congressional District because we have seven congressional districts. So we dug deeper and we found out there were 15 different congressional districts in Louisiana that they were claiming they created jobs in using stimulus money.

Mr. WALDEN. So you think something got by JOE?

Mr. SCALISE. I'm not really sure.

And we did a little digging, and in fact, our local newspaper did some digging as well. They called the White House. First of all, they said, Okay,

White House, you're claiming that you have got all of this transparency. JOE BIDEN is hunting out for every dime that's out there; how is it that you can have jobs being shown that you're creating in districts that don't exist? And the first thing the White House said is, We're not certifying the accuracy of the information.

So first, in January, they were going to be the most transparent administration ever. Now, 10 months later, billions and billions of dollars of borrowed money is going out the door. Nobody knows what it was spent on. They claimed to have created jobs in districts that don't exist, and the best they can say is, We're not certifying the accuracy of the information.

Mr. WALDEN. But I thought nobody gets past JOE?

Mr. SCALISE. We're going to get to that because I think we've got some enlightenment we're going to shine on it.

So then they actually followed up, and then they asked the White House, Well, how is it if you're not certifying the accuracy, how is it, though, that somebody can show a district that doesn't exist on your Web site as creating jobs? And the White House spokesperson's answer was, Who knows, man; who really knows. That is his direct quote. That is the best the White House could come up with as the American people are saying, Where are the jobs and what are you all doing with all of this money? And their answer is, Who knows, man; who really knows.

So we go back to President Obama. Right here in February, February 24, on the House floor his quote, Because nobody messes with JOE. And then here we've got a picture of Vice President JOE BIDEN with these two folks that crashed the White House State dinner just a week or so ago, and you wonder why nobody is manning the store and nobody's taking any accountability now. These are the people that are manning the store, and the American people are saying enough is enough; this is not a joke because the joke is on us. And it's money that you're borrowing from China and our children and our grandchildren, and we're tired of it. We actually want to create jobs. That's why we're going to continue to try to create jobs. But this shows you just what's really going on with the taxpayers' money.

Mr. WALDEN. And I will yield to my friend from Ohio, but before I do that, maybe this one didn't get past JOE. Maybe he approved it, I don't here.

But it says here that the Sacramento Bee reported \$25,000 of stimulus money, to provide five free concerts in the Sacramento area. I like concerts. I have gone to a concert. I have an iPhone. I've got headphones. I have my iPhone here. It would be cheaper to lend my iPhone probably than the \$25,000.

But here's one of the programs. It is the kitchen review. Now, you gentlemen I know are students of philharmonic and its programming. The

kitchen review where audiences can imagine, "the life of a pot, a lid, a broom, and a dishrag." Twenty-five thousand dollars so that you can imagine—this reminds me of the Johnny Carson skit, you know, Carnac, the Magnificent. What do a pot, a lid, a broom, and a dishrag have in common? This is insane.

Now, the executive director did say the money will give 10 of his musicians a good long week of work. Now, I don't know about you guys, but when I hear of jobs—I was a small business owner for 22 years. I created jobs, I maintained jobs, small company. I know what it's like to sign the payroll check. If I created a job, I expected it to last more than one week. Most of us I think see these numbers and think, Oh, they created a million new jobs or whatever they're claiming, 640,000 jobs. And then we find it was a roofing project that lasted 2 weeks. It was the life of a pot, a lid, a broom, and a dishrag concert in Sacramento for free. They gave a long week of work.

Now, that is not going to bring about economic recovery. I yield to the gentleman from Ohio.

Mr. LATOURETTE. I think the message is—and the gentleman from Louisiana I think laid it out very well—is we don't claim to have all of the best ideas on how to do this. I think that in the House we represent about 47 percent of the American people. And as you move forward with sort of—it's like going to a bad movie, Stimulus 2 or Stimulus 3, about to rear their ugly heads around here. We would just like to have the ideas that we have—the gentleman's a former business owner, too—to say, Hey, I have an idea how to create a job. And I think if they were more receptive to that, you wouldn't have to report phony stuff, and people wouldn't be asking where the jobs are because the gentleman mentioned the health care debate.

One way to make sure that health care is less of a problem in this country is to have people working with health care, with retirement security. One way to solve the problem with the foreclosure crisis in this country is to have people working so they can pay their mortgages and their insurance and raise their families.

But just two quick examples. I don't understand why they're bragging about this stuff. The government claims to have spent \$1,047 to buy a riding mower from the Toro Company to cut the grass at the Fayetteville National Cemetery. I'm all for cutting the grass at the Fayetteville National Cemetery, but the Web site claims that the purchase of that single lawnmower helped save or create 50 jobs.

Mr. WALDEN. A single lawnmower. Well, maybe it's a push mower. A big push mower.

Mr. LATOURETTE. We've got a lot of shift work going on there.

Mr. WALDEN. For 49 people pushing and one steering. How many people does it take to push a lawnmower?

Mr. LATOURETTE. It was a riding lawnmower.

So anyway, and then to Connecticut. I think again what our constituents ask us to do is what the next story does. And that is, the Police Department up in Plymouth, Connecticut, received a grant, and they used it to buy new computers. And again, law enforcement needs the best tools to catch the bad guys, but the administration is saying that the purchase of these computers created 108 jobs. There's a couple of problems with that. There are only 22 people who work at the police department, and when they called the mayor—they called the mayor up there in Plymouth. They said, Hey, how come you guys are reporting 108 jobs with some computers. He said, I can't tell you. His name is Vincent Festa. He says that—and this is what our constituents want us to do—he said that the town has resorted to counting paperclips to save money but that it had no plans to lay off any police officers even without the stimulus. He couldn't explain the police report, and the town's police chief—unlike the mayor—didn't return telephone calls seeking comment.

So, again, we need to be included as we find out not only how can we help assist the economy recover, creating jobs, but we need to do what the mayor, Mayor Festa, is doing in Plymouth, Connecticut, counting the paperclips.

Mr. WALDEN. And maybe we need to ask Lesko where the free government money went. He seems to know. He's on television all the time. Ask Lesko, where's the money, free government money?

How about this one: West Virginia requested \$387,350 from the so-called stimulus to hire two State coordinators and an assistant to encourage private land owners to grow ginseng and shiitake mushrooms on their private forest lands. Now, I have nothing against ginseng or shiitake mushrooms, for that matter, or farmers. With three staff and \$387,000 in Federal money they hope to contact 160 landowners. That works out to \$2,377 per contact to reach out to 160 farmers, forest land owners, to say, Hey, you guys want to grow some ginseng and shiitake mushrooms out there under the trees?

This is your Federal tax money, \$387,350 for West Virginia. I thought with all of the paving that goes on there—well, we won't go there.

Mr. LATOURETTE. Maybe they don't have phones in West Virginia.

Mr. WALDEN. I mean, come on—\$387,000.

I loved this one, too, \$4 million for a new bike path trail in Massachusetts so people can get to the North Hampton Taco Bell. Do you think I'm making this stuff up? So there's a new slogan that Taco Bell has come out with: "Bike to the border." The problem is, we all know with Massachusetts, before it's built, you know, they're going to



make it a crime to eat a burrito and ride a bike at the same time. You can't eat a burrito and ride a bike at the same time. No taco chips, no salsa, nothing on that bike. And forget the cheese if it's not from a free-range dairy cow. I mean, this is \$4 million for a bike path to the Taco Bell.

Mr. LATOURETTE. Both gentlemen have talked a little bit about some of the other stuff that's been going on. At the same time the economy continues to tank and people continue to lose their jobs, they continue to pile on. This health care discussion that we had a little while ago in the House, one provision in that bill says that at Taco Bell, at every vending machine, in every location you're going to have to have a sign next to it that says what the thing is not only made of but whether it's good for you or not.

I'm not a healthy eater, you can tell.

Mr. WALDEN. Actually, you are healthy eater.

Mr. SCALISE. Robust.

Mr. LATOURETTE. I think I have a healthy appetite. I don't know if I'm a healthy eater.

It's going to cost a lot of money, obviously for not only the consumer—because these signs are not going to come free—but also the people who are going to make all of this stuff. Does anybody think this compliance cost won't be added on? And how do you deal with compliance costs? You either raise prices or you let people go.

But anybody that thinks when they go to a vending machine and sees a Twinky, a Twinky filled with that delicious cream, anybody who thinks that that is good for you probably shouldn't be out and about without adult supervision during the day.

Mr. WALDEN. Or that thinks you're going to stand there at the vending machine with the lineup of Twinkies and you're going to read the ingredients list and the calorie list, and that's going to dissuade you from buying that Twinky that you have found the vending machine to get.

Mr. LATOURETTE. And then on top of that, we had the cap-and-trade bill a little earlier. Again, everybody wants clean air—I come from Lake Erie—clean water and everything else. But the fact of the matter is there was a huge national carbon tax. And again, when you have an economy that is ailing and people are losing their jobs, imposing more taxes on them, the places they work is not the answer.

So you sort of have this double whammy going on here. You have no help for the people who have lost their jobs, and by the same token, you have policies to create more job displacement.

Mr. WALDEN. This government, this Federal Government, Democrats have run the House for the last 3 years. The House controls the purse strings. The Congress does. The President can put forward a budget and they end up signing the bills into law, but it's the Congress that controls the purse strings.

Under this administration, the Federal Government will run deficits in excess of \$700 billion every single year for the next 10 years. Now, the highest deficit, the highest 1-year deficit prior to this administration was \$459 billion, which was high, but it was coming down. Now it's \$700 billion and higher for the next decade at best.

Now, that racks up to what? What do they figure? A \$20, a \$17, \$20 trillion debt at the end of 10 years. So let's figure out how you pay that off. Let's say it's \$20 trillion by the time they're done.

□ 1700

Well, how about this? The Congress runs a trillion-dollar surplus for 20 years and pays down the debt. How many in this Chamber believe this Congress, or any Congress for that matter, is going to run a trillion-dollar surplus and apply it to paying down debt? I see no hands going up.

So then you're going to drive inflation. You're going to inflate your way out of debt. And that's the fear I have, having been in small business, knowing a lot of small business people. That means higher interest rates, higher inflation, a return to Carteromics. You remember when Jimmy Carter left office we had double-digit inflation, double-digit unemployment, double-digit interest rates, and the economy went in the tank. That's what portends from this enormous deficit.

I'd yield to the gentleman from Louisiana.

Mr. SCALISE. I thank the gentleman from Oregon.

This is what we talk to our small business owners about. When I go back home, small business owners that I talk to aren't saying that they want the government taking over health care. What they're saying is these policies, these policies are what are causing them to hold back or to look at divesting and just getting out. But there's so much money on the sidelines because of the actions being taken by President Obama and the liberals that are running Congress that are literally stifling the ability for businesses to create jobs. The American people know that because the American people are looking at these policies. And they've got good common sense. And they're saying, If you've got tough economic times, the first thing you should be doing is figuring out how to help businesses create more jobs.

And so then they look at this health care bill. Here's a bill that, first of all, spends over a trillion dollars. A trillion dollars in new Federal spending. But then how do they get that money? Well, they go and they cut Medicare to the tune of about \$500 billion, and our senior citizens know how bad that would be. But then they also turn around and they add over \$700 billion in new taxes on the backs primarily of small businesses. And so, on one hand, the President's holding a job summit, but, on the other hand, he's got a bill

that would add \$700 billion on the backs of small businesses with the government takeover of health care. Then, on a third hand, he's got this cap-and-trade energy tax, which literally is a tax on any company in this Nation that manufactures goods.

Mr. WALDEN. Which will drive jobs out of this country.

Mr. SCALISE. Absolutely. In fact, the National Association of Manufacturers said the cap-and-trade energy tax would run at least 3 million more jobs out of this country. Now, of course, this is a President who, since the stimulus bill, he said it was going to create 3 million jobs. Our economy has lost about another 3 million jobs since his stimulus bill, but then his policies would run millions more jobs out of this country.

Of course, the President says we need to do all of this because we've got to save the planet. Well, just earlier this week they finally have exposed some of the corruption involved in this whole argument behind cap-and-trade.

Mr. WALDEN. You're talking about the emails and the conspiracy.

Mr. SCALISE. I'm talking about Climategate. Climategate just hit. This is something that's been going on internationally for over for 10 years. It just got uncovered because some of these emails came to light. Of course, to pass the cap-and-trade energy tax, they said man is destroying the Earth and we've got to limit carbon emissions. Of course, the two biggest emitters in the next 10 years are going to be China and India, and China and India have already said they're not going to comply. So you're not only running millions of jobs out of this country, you'd be running them to countries that actually emit more carbon to do the same thing. So it actually is counterproductive. But then let's look at the science behind what they're saying they need to do.

You've got Al Gore out there who's been running around for years now—he's won Nobel Peace Prizes and Academy Awards—saying the scientists are virtually screaming from the rooftops. Now the debate is over. This is former Vice President Al Gore. The debate is over. There's no longer any debate in the scientific community about global warming. And what he's saying is all of these charts and graphs he's been talking about for years and in his movie "An Inconvenient Truth," a very famous chart he used to show talking about global warming was called "the hockey stick chart." That's this chart right here. It's showing over thousands of years they've documented that our Earth is going through cooling periods, our Earth is going through warming periods. We had more warm temperatures than we have today thousands of years ago when there was no combustion engine, there were no fossil fuels being burned. Mother Nature just has a way of going through different cycles on her own.

And so what they were showing was over hundreds of years you had this

normal trajectory down, and all of a sudden there's this increase in the Earth's temperature that they showed. The problem is, we just exposed through Climategate, they got to this huge increase that Vice President Al Gore said we need to change our entire national economy over by corrupting the data.

These are some of the things that came out in the email: I have just completed Mike's nature trick to hide the decline. That was Phil Jones, who's one of the lead scientists for a group called the University of Anglia in England. This is a group that writes all of the documents that our scientists in America have used to say we need a cap-and-trade energy tax. They phoned up the numbers. They corrupted the data. And here's the email.

And there are many, many more emails, talking about how they use tricks and that they hide the declines that don't prove their argument. In fact, there are many scientists who have said we're in the seventh year of a cooling period, but they won't show any of that data because they literally have hid the data, and now we've exposed it through Climategate and these emails.

So you've got Vice President Al Gore still running around out there saying we need to have this cap-and-trade national energy tax. The President's going to be going to Copenhagen in about a week and a half, and I guess, just like he went there to try get the Chicago Olympics, a lot of us are hoping he comes back empty-handed in Copenhagen, because what he wants to do is sign an agreement that would literally lead to the destruction of millions of jobs in America based on corrupt science.

Mr. WALDEN. And we know that his stimulus plan that passed by the Democrats hasn't worked. Now they're coming back with stimulus II, we read, that may be \$300 or \$400 million more of borrowing and spending. And you're creating bike paths to Taco Bells and checking on Viking pollen air in Iceland. This is crazy.

Now, the scientist you referenced there, Jones, I believe that he has been the recipient of tens of millions of dollars for his research of American taxpayer research money from the Department of Energy.

Mr. SCALISE. In fact, we're now asking for an investigation to be conducted into not only—

Mr. WALDEN. Republicans are.

Mr. SCALISE. By the way, he just stepped down through the embarrassment of the exposing of this scandal. So for anybody to say, Oh, this isn't anything real, this is all being trumped up, this guy just stepped on down out of embarrassment over this scandal.

But we're now calling for an investigation to look into the millions of dollars of Federal grant money, U.S. taxpayer dollars, that have been either obtained through corruption or, when they got the Federal tax dollars, they

went and conducted studies that they manipulated the data, corrupting the data, again, using that taxpayer money, and we want our money back and we want criminal charges to be filed against these people that actually went out and corrupted data to try to pass a national energy tax in this country that will run millions of jobs. And you wonder why small businesses feel like they're walking around this country with a bull's-eye on their back.

Mr. WALDEN. Beyond that, Republicans have asked for an investigation of this. It's pretty silent on the Democrat side of the aisle. This is a clear example where there has been a conspiracy to avoid the Freedom of Information Act, to discourage dissenting viewpoints from being included. All you have to do is go through the 3,000 emails. And as the ranking Republican on the Oversight and Investigation Subcommittee, our Republican staff is doing that as we speak, and it's phenomenal what they're finding in terms of this sort of concerted, conspiratorial effort. And I don't use those terms lightly.

It appears to be a real conspiracy when you've got a lead scientist emailing out to other scientists in the United States saying, Destroy this data, delete this email, get rid of this, and then you discover that the actual temperature data that were gathered from the sites has been destroyed. They took those data and then they ran them through their own model of what they think it should look like and then they destroyed the original data, which means nobody else can go back and use those original data to test and replicate whatever it is they model.

And then there are these emails about let's try and discourage people from getting published in this magazine because we don't think they're with us on this, or whatever. I mean, the American people are going to see transparency. They don't want to—I don't know of too many Members in here who sent out pamphlets in their campaigns that said, Send me to Congress and I'll raise the cost to turn on your light switch, yet that's what they voted for with that cap-and-trade. They voted for 3 million jobs to go overseas.

Mr. LATOURETTE. Well, they did.

I want to go back just to the jobs business for a minute, because there's a couple of things you can do as a government. The government doesn't create jobs. That's one of the myths around here. It's people who have the entrepreneurial spirit. It's corporations that make investments in not only equipment but product and people.

But going back to the health care thing and Mr. SCALISE's observation about more jobs leaving, I would think that the first thing would be to be like a physician; do no harm. Let's keep what we've got and then we can build on it. Then we go can grow jobs. But if you look again at the health care bill, how that's financed—and a lot of my

constituents don't understand that everybody recognizes in a country as great as the United States we shouldn't have people who die because they don't have quality health care. They should have the ability to have affordable, accessible health care.

But no matter what that number is—some people say it's 47 million. The President came here and said it's 30 million. Whatever the number is, even at their number of 47, you're talking about 15 percent of the people in the country. And a lot of people are asking the question: How come we've got to screw up everybody else to take care of this problem that's dealing with maybe 15 percent of the people?

And specifically to the jobs issue, the Senate bill that they're now debating across the Capitol has a number of taxes in it. First, both bills cut half a trillion dollars out of Medicare. And how you're going to make the country healthier by taking away half a trillion dollars from people on Medicare I have yet to have explained to me adequately. But on the other side of the Capitol they're debating all these new taxes, and one is specifically on companies that manufacture wheelchairs.

Now, I have, not in my district but on the other side of Cleveland, in Lorain, Ohio, the world's leading wheelchair manufacturer. And in talking to the folks that run that company, they're saying, You know what? If this tax comes about—and it's hard to know why you have to tax wheelchairs to take care of somebody who doesn't have health insurance—if this tax comes about, it will completely eviscerate any profit margin that we have, and I'm going to take thousands of jobs and they're going to have to be terminated and I will go to China. I will go to China and employ thousands of Chinese to make wheelchairs and have them imported into the United States.

Now, some of our friends on the other side say, Well, that's not patriotic. What are you doing? You're thumbing your nose at the United States of America. Business is business and jobs are jobs. So to disincentivize—not only to do no harm, but to harm—doesn't make sense to folks back where I'm from.

Mr. WALDEN. No, it doesn't. I think that's the issue. And we had an alternative that created twice the jobs at half the cost in America. Twice the jobs at half the cost. Clearly, we want to get people back to work. There are alternative ways to do that that Republicans have put forward on health care reform. We haven't even talked about tort reform that would save \$68 billion. Get rid of the junk lawsuits and get access to affordable health care out there.

There are ways—and as a former small business owner, I can tell you—to create jobs in the market out there. Bike paths to Taco Bells is not a sustainable economic recovery model.

\$95,000 for research on Icelandic Viking-era pollen seems a little outrageous at a time when we're running record reported deficits.

I know we're about to run out of time here. I'd go back to my colleague from Louisiana if he has got any final comments because, you know what? All of this has gotten past Joe.

Mr. SCALISE. And I guess that's a good place to finish, kind of where we started. The American people are saying, Who's manning the store? And they're also saying, Where are the jobs? And they're looking at these policies and they're looking at this cap-and-trade energy tax, they're looking at this government takeover of health care with the \$700 billion in new taxes. They look at what happened today here on the House floor. Speaker PELOSI's top priority was a bill that actually puts into law a permanent 45 percent tax on death. A tax on death. And so that's their answer.

Their ideas are actually leading to increased unemployment, running millions of more jobs out of this country, and the best that they can say is, Who knows? There's no accountability. But, don't worry. The President is still saying, There's old Joe. He's manning the store, because nobody messes with Joe. They think that this may be some kind of joke, but the joke is on the American people. And the American people are tired of it.

Mr. WALDEN. We yield back the balance of our time.

#### THE YEAR IN REVIEW

The SPEAKER pro tempore (Mr. KISSELL). Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes.

Mr. GOHMERT. I do appreciate this so much, and I appreciated the informative information that was provided by my friends and colleagues here. A lot of very helpful information. I do find it interesting.

We were promised back in the first of the year by the administration that if we did not pass that \$800 billion stimulus bill, then we could see 8.5 percent unemployment. We had to pass that stimulus bill. We could not wait, because people were losing their jobs by the thousands every day. It could not wait.

□ 1715

People did not have time, we were told, to read the bill. It was too important to just pass it, because otherwise the unemployment rate, we were told, could get as high as 8½ percent if we did not pass it. Well, 8½ percent by not passing the stimulus bill sounds very good at this point. From last month, unemployment, 10.2 percent. We're hearing that there will be additional jobs that will have been lost come Friday when a potential announcement will be made.

It is so frustrating to have had people on this floor come into this Chamber

where there has been so much powerful legislation, lifesaving, life-enhancing legislation, and then be told, as we were earlier this year, there's no time to read the bills, you just have to pass them, because thousands and thousands of people are losing their jobs every day, and it could go to 8½ percent unemployment unless we pass it right now.

And so we passed it and the President took 4 days to get the right photo op in Colorado to sign the bill. We could have used those 4 days to actually debate and amend the bill and make it actually into a jobs bill instead of a reward to people who had been faithful to the Democratic Party, because that sure appears to have been what it became, what it was, because it certainly wasn't a jobs bill.

And if you go back to that stimulus bill at the first of the year and you look for people who saw it clearly for what it was, this was not a jobs bill, this was not a stimulus bill. Over half of it would not be spent for 2 years. It was around 7 percent was all that was going to be spent on infrastructure. It was sold to a lot of people in this body on the basis that we were going to enhance transportation and infrastructure. We had to build all these things, anyway, so why not do that to create jobs. And then 7 percent went to that.

Less than 1 percent went to small business, SBA loans, programs. Less than 1 percent went for that. Yet we know that 70 percent of the new jobs are created by small business. It was clear that was not a jobs bill.

So you would think that as we approach the end of this year, more and more people begin to see that really wasn't a jobs bill. Now who was it that was right about that bill? Who was it that read as much as they could in the limited time they had and was able to discern what kind of bill that was and how much damage would be done, that it wasn't going to help the economy, it was going to hurt it. That was clear to so many of us.

You would think at this point as people start to talk about, okay, well, that sure failed, what we tried earlier this year, although we did put a lot of extra debt on future generations, because if you think about it, between the \$800 billion stimulus, so-called, package and the \$400 billion land omnibus bill that was passed right on its heels, you have about \$1.2 trillion. That also happens to be, when you divide the number of households in America, it's about \$10,000 per household that we just laid on in debt to every household on average in America.

I mean, who in America can afford another \$10,000 being added to their debt that at some point is going to have to be collected as debt, as taxes, or we will go the way of the Soviet Union and have to someday announce, you know what, we didn't listen to China when they laughed at us because we said we were controlling our deficit and we did not; we didn't listen to

some of the European nations because they had never been very good at controlling their spending, and when they told us we should control ours, we didn't listen. We laughed at them when they laughed at us.

But now it turns out they're not buying any more of our debt. Fortunately, they still are so we haven't had to do what the Soviet Union did yet and announce that we're bankrupt and we can't print enough money fast enough like Germany did in the 1920s that brought about that horrible dictator with the mustache that killed so many millions of people, innocent people.

We haven't been listening as a nation, as a nation's leaders. But America is getting it. They're seeing. And that's being reflected by what's going on around this country. It is immoral what we are doing to future generations. What we did in here this very day, passing this extra death tax. There's going to be no death tax in 2010, that was going to be the case; and now this bill that passed the House, if it passes the Senate and gets signed into law, well, it will go to 45 percent.

But we're told, well, gee, even though those people paid income tax at the highest rate in the country and even though there may be 40 to 44 percent, the way we're moving, who will pay no income tax, we're going to take away about half of what they've been able to accumulate in their lives, their family farms, their business.

And those that are in small business know what I'm talking about, Mr. Speaker, because so many of them have known what it is to have the person that started the business, got them involved, pass away, and then there's a 55 percent tax for so many years.

We were able to pass a bill, and it's a shame on the Republicans that we didn't permanently end the death tax. But we didn't have 60 votes in the Senate. It was passed out of the House to permanently end the death tax, and it didn't get but 56 votes in the Senate, so it didn't pass. Shame on the Republicans for not getting that done. But now shame on Democrats who are in charge and are going to go with a 45 percent tax.

Mr. Speaker, I know you heard people during debate today in response to my pointing out that, as a judge, I have sentenced people who stole from deceased persons. We consider that reprehensible, despicable, for someone to steal from a dead person. And yet in this body we have the power to just pass a law and say, well, it may be immoral, but we have the power to take people's money when they die, so we're going to do it, anyway.

We have the power, we passed a bill today, despite the objections of so many of us, but we do not have the moral authority to be taking other people's money that they accumulated after paying maximum amounts of income tax and redistribute what they earned with the sweat of their brow and their ingenuity and their risk.

That's not right. That's not the way America became the greatest country in the history of the world. It's really immoral to be doing that kind of thing. And if we were not the Congress, we would be sentenced to go to jail for stealing from dead people the proceeds from a life's work. It isn't right.

When you look at the response, it is to push a health care bill. We're going to add this additional tax and, by the way, that goes to those who generate the jobs, the small businesses. People like Warren Buffett, I don't know his personal situation, but the people that I have been aware of who are megawealthy had good estate planners and the ones I was aware of were able to put together estate plans that created life insurance situations that were paid for where they were going to be fine, their families were going to be fine when they passed on and left their inheritance because they had figured out innovative ways to address the death tax.

The megawealthy, they're not the ones who will be hurt. The ones who have been hurt are those whose family built a business, and then the one who built it passes away, leaves it to the heirs and they don't have a lot of money. They own machines. They own property. They own the business. And now they've got to come up with a 55 percent tax—under the bill we passed today if it becomes law, big whoopie, it will be a 45 percent tax—on money that they paid personal income tax on, corporate income tax on if they were a corporation, individually if it was through a subchapter S.

They paid lots of taxes, and then to take 45 percent now, 55 in the past, of their business meant that lots of families had to go borrow money against the business or sell part of the business to some outsider because they had to get the money in order to pay the tax.

I mentioned my great aunt's situation. Some have wondered, but it was a very real situation. In 1986 when my great aunt died, her husband had predeceased her. It was July of 1986 she passed away, back in Texas. Over more than a hundred years, generations had accumulated around 2,500 acres, farm, ranch, raising corn, raising cattle. They had a good small business and employed people to help them run things.

My aunt, my great aunt, Lilly, was a very good businesswoman. She was very astute, very careful, and she lived a very minimalist life. She was not extravagant. She didn't have a lot of cash. She would acquire nice things. She had some nice crystal glasses, some nice china, silverware. There were things that she had made clear she was leaving to certain family members.

When she passed away, there were comparable sales in the area of around \$2,000 an acre; but before the estate could be finalized and settled, there was a lot of FDIC or RTC land that was dumped and prices of the land fell to

around \$600, \$700 an acre. Now the IRS was nice, they gave them a couple of years' extensions, hoping the land value would come back; but after a couple of years the IRS said, That's it, no more extensions, it's all got to be sold. It was a nearly \$5 million evaluated estate, and when the land values fell to \$700, I believe they got nearly to \$800, if I recall correctly, that paid the tax. It didn't even quite do that.

That's why the IRS ordered the land sold and then had an auction of all her personal assets. All of us in the extended family were encouraged to come out to the auction and try to keep as many of the family heirlooms in the family as we could. We didn't keep them all. There were some from the community, some who came from other places who decided they wanted some of my great aunt's property and they were able to bid higher, so we didn't protect all of the family heirlooms, family treasures. Not so much huge value, like over \$500, but of great sentimental value. And we couldn't keep it because this nearly \$5 million estate, valued when she died, was all taken.

□ 1730

The family begged and pleaded with the IRS to at least, instead of taking the entire estate, how about just taking 55 percent of everything that existed? Take 55 percent of the land. That would seem fair. Oh, no, because, the IRS said, Congress had made clear that, oh, no, we take 55 percent of everything at the time of death, and if it's mainly land and it's not worth as much when it sells, we're taking it all.

All the land was sold. It was a tragic situation.

But I've heard people come down here and try to say all this talk about hurting family farms and small business, there's really nobody that's ever been hurt in a family farm or small business from the death tax. It's simply not true. People are hurt and have been hurt so often in small business and family farms because of the death tax.

One of the things I did purchase at the auction was we got some of Aunt Lilly's crystal, and we wanted to let the closer family members who were told you will get this and this when I'm gone, we wanted to let them get the bid and get the things that were theirs; so there was reluctance to bid on things that were designated for someone else. But it was just a long, sad day. And I bought a little music box, a church, and you could wind it up, and the cross on top of the church turned as it played "Amazing Grace."

Well, God's grace is amazing, but that's certainly not true of the United States Government. There is no grace when it comes to the United States Government, which brings me back to the issue of health care.

Mr. Speaker, I've got a box here. It's got the bill that we passed here in the House, and there's some great stuff in here. We had people come to the floor and say, for example, we didn't need to

pass the Bart Stupak amendment, no, because there's no money in here for abortions. But if you open the bill to page 110, something apparently people who said there was no money for abortions had not done, but at page 110, subparagraph B, entitled "Abortions for Which Public Funding is Allowed," it says "The services described in this subparagraph are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is permitted."

Well, how about that? We were told there wasn't any money in there for abortions from Federal tax dollars.

So how about the thought of someone not only taking someone's proceeds and property, money that they accumulated over the course of their life, paid the highest income tax rate on throughout their lives, and then they die, and throughout their lives they knew in their heart, they believed with all their being, that life begins when it's created, and that is not just when a baby is born but in utero, and this person who has passed away knew in their heart it's really murder when you kill this innocent helpless child who cannot defend themselves. They try. You see the hands and their trying to get away from having their brain sucked out, whatever method of abortion is being utilized. You see them fighting against it. But they're helpless. They can't fight against those trying to kill.

Yet the Federal Government not only does the reprehensible thing of taking this deceased person's money that they accumulated from their own work, their own effort, paid tax on, and then uses those tax dollars, puts it in the general fund and uses some of the general fund to go out and pay to kill those innocent babies.

We were told right here in this House, right here in this body, in a joint session, that basically if you like your insurance, you could keep it. We heard that said over and over. But if you look at page 91, that's section 202, "Protecting the Choice to Keep Current Coverage," subsection (a) right under that, all capital letters, "GRANDFATHERED HEALTH INSURANCE COVERAGE DEFINED," and this is where it defines whether you get to keep it or not. So it says "the term 'grandfathered health insurance coverage' means individual health insurance coverage that is offered and in force and effect before the first day of Y1 if the following conditions are met: "Condition No. 1, 'the individual health insurance issuer offering such coverage does not enroll any individual in such coverage.'"

I had a person back in East Texas that I represent when I was talking about health care say, You know what? I know a lot of people are really concerned about it. I don't want to seem callous, but I'm not worried about it, because I retired. And I said what company, one of the bigger companies in the country. And he said, We have a

great union that negotiated us great health insurance, and I've got great insurance. The President said if I like it, I can keep it. I'm not worried about everybody else. I'm in good shape.

And I said, Well, is there any chance that anybody else will ever retire from your big company and be added to the insurance health insurance coverage that you have?

He said, Oh, yes. People are retiring all the time.

I said, Oh, bad news, because under subsection (a)(1)(A) if the individual health issuer offering such coverage enrolls any individual in the coverage after the date this bill goes into effect, you lose your insurance. Everybody that has it loses it, and you get kicked over into the Federal exchange program.

But at No. 2, here at the bottom of page 91, it says, "the issuer does not change any of its terms or conditions, including benefits and cost-sharing, from those in effect as of the day before the first day of Y1."

So, very clearly, if the insurance terms and conditions change at all, if the benefits change at all, copayments change, any of the cost-sharing, premiums, whatever, if they change, tragic. You lose your insurance. You do not get to keep it. The government gets to tell you about your health care under the Federal exchange.

And, yes, we've heard a lot about the panel that said, gee, if you're under 50, you don't really need a mammogram. If you're over I think 75, 78, something like that, then you don't really need a mammogram. That's the government telling you. I don't care what others say. You go read this bill, and it seems pretty clear that those panels are the ones that will determine under the plans what services are provided. So here at page 167, it says, "The Commissioner shall specify the benefits to be made available under Exchange-participating health benefits plans." So the Commissioner will decide all of the conditions of the health insurance policies that are offered. Everybody has to offer the same insurance in each service area.

And you go down to the middle of the page, "Required Offering of Basic Plan," the entity offers one, and only one, basic plan for such service area. Then the next provision says, "If and only if the entity offers a basic plan for such service area, the entity may offer one enhanced plan for such area." If you offer the enhanced plan, you may offer one premium plan. And then also if you do all that, you could offer a premium-plus plan. You have to get to the premium-plus plan before the panels dictate whether or not you can get a mammogram before you're age 50, or whatever panel the panel happens to indicate. Maybe if there's enough outcry, the panel withdraws and says, okay, we were just kidding; so we'll change that. But our experience is once the government is comfortable in its role of regulating, it gets to where it

really doesn't care what the outcry is. It doesn't matter because they run things.

Just as with the flood insurance when the Federal Government, if it sounds familiar, said, You know what? We think private insurance companies are charging too much for flood insurance. Well, it might have something to do with people who keep rebuilding homes on the coast where they get wiped out. Well, the Federal Government apparently decided we need to provide cheaper insurance than what can be provided in the private sector. So the Federal Government got involved. They didn't charge enough in premiums to stay in the black, so they went into the red.

Well, private companies cannot compete with the government because they can't exist in the red unless the government takes them over, which I guess you could talk to GM about or some of the banks or some of Wall Street. But anyway, they ran the private insurance companies out of the flood insurance business, so nobody sells flood insurance anymore because they could not compete with the Federal Government, and that's going to be true of this as well. This will be a disaster.

It's one thing to experiment with a novel—what really is a socialist idea here, the Federal Government's socializing medicine. It's not total socialism; it's just a socialist program because the government takes over a private-sector business, a massive amount of the economy, and controls it. But it doesn't stop there because if the Federal Government is paying for all your health care, shouldn't they have a right to tell you how to live?

Oh, yes, of course, in this bill the Federal Government becomes the repository for everybody's medical records. Isn't that special? So the Federal Government will have records of your most private, personal, secret physical situation. The government will have those records.

Now, you can be assured that if the Federal Government has them, the wrong people will never be able to get them, especially people in the government who may want to manipulate you.

Oh, yes, there was that problem in the 1990s when 1,000 FBI files were found in the White House, which was a crime for which Chuck Colson went to prison for just having one. There were around 1,000, as I recall, in the White House, people's most personal, private information in FBI files. But the White House had it. They didn't have any incentive to try to use any of that information even though there were some Members of Congress whose files were there. Gee, wasn't that interesting? Maybe if they needed a vote?

I know before this administration under the prior administration when the TARP bailout was about to be passed, I got an email from the White House liaison saying, Is there anything

that can be added to the existing package that will get your vote? Well, apparently some people answered otherwise than I did. I was livid, furious with the question. My first response to the email was, There's nothing that can be added. Removing the biggest socialization of private assets in Western Hemisphere history would be a good start to get my vote. But apparently there were others who answered otherwise, so there was another \$100 billion added to that bill.

But think about it. If the Federal Government has all of your personal medical records. And you know the Internal Revenue Service is the enforcement arm. They'll collect the fees. They'll make sure you're doing right. They'll make sure the Federal programs are paid for. So, gee, they know what your cholesterol count is. Well, you think maybe they would need to know if you're buying bacon or things high in cholesterol if your cholesterol count is too high? Maybe they need to adjust your insurance rate up and tell you what you can and can't eat. Well, that seems almost ridiculous, doesn't it?

□ 1745

It can happen. That is where we are headed.

If you go over to page 1510—and you wonder why would you need 1,990 pages, another 40 or so of the manager's amendment. If you go to page 1510, section 2572, Nutritional labeling of standard menu items at chain restaurants and of articles of food sold from vending machines. And as you go through and read these pages, it is really interesting reading because a restaurant or similar retail food establishment shall place adjacent to each food offered a sign that lists calories for displayed food item or per serving.

It talks about in vending machines, if you cannot read the food labeling information, then they have to post that on the machine. It will cost millions and millions of dollars, and if people know how the vending business works, there are a lot of people who own vending machines. They make their living doing that. They go around and keep them supplied. They make money from filling the machines. I had friends in college whose parents put them through college doing just that. They don't have the money to get these machines reconfigured and do all of this work on them so they meet these new requirements. Somebody is going to go out of work, be relieved of their ability to make money. And if there were plenty of jobs out there, that wouldn't be so bad, but that means they will go into the job pool with all of the other people who are out of work right now.

And then we passed the crap-and-trade bill in here the last week of July, as I recall. And we had people come down here to the well of the House, some people stood back here at these microphones, and people said people aren't going to lose their jobs because

of this bill. They are going to have jobs created. Good, wonderful, green jobs will be created.

Well, they hadn't read that bill either, apparently. On page 900-something, if you actually read the bill, as I was trying to do on a very short time because we got the 300 pages that was added around 3:08, 3:09 a.m. and we didn't even have a complete copy of the bill assimilated with the amendments that were added in the wee hours. I was trying to read as much as I could as quick as I could, but page 900 or so, I believe it was, there was a fund. I believe it was called the climate change fund that was created to pay people, it said in the bill, who lost their job as a result of that bill. So whoever's staffer or special interest group wrote that bill, they knew people were going to lose their jobs and that is why they put that in the bill. There was even money in there to create a fund to pay people a relocation allowance in case they could be paid to go where the job was moving. But unfortunately, that didn't provide money to send them to China, Argentina, or India, the places where those jobs were really going to go, where there is four to 10 times more pollution put into the atmosphere for creating the same products. No, they wouldn't get money for that.

But I still think the good news there is if that bill becomes law—and I know when Americans find out what all is in that horrible bill, they are going to fire a lot of Members of Congress that pushed that through without knowing what was in it and knowing what was going to be done to Americans and put more people out of work. But the good news is the people fired here in Congress who lose their job as a result of the crap-and-trade bill, they might be entitled to some relocation allowance under the bill because they lost their job as a result of the bill. And they will be with so many other Americans who lose their job for the same reason.

This is micromanaging in this health care bill to an unbelievable degree.

On the other hand, I have a health care bill here that really is about health care. It is not about control, and control and micromanaging American lives like this huge, 2,000-page bill is. It is pretty basic. And it is interesting, I did have a nice conversation with Doug Elmendorf. The Congressional Budget Office has been sitting on this bill since the request was made August 19 to get it scored. And the reason we didn't get the request in until then was because we were told back in June, Congressional Budget Office, we don't score things that aren't bills. You have to have it in bill form. We had to push and push. We eventually got it through legislative counsel and got the bill drafted and filed so it could be scored.

The bill was submitted to the Congressional Budget Office. We said officially, please give us a score because this should work. This should save money and not only not cost a trillion

to \$2 trillion like the bill on the table that passed the House, but this should actually save the U.S. Government money while, at the same time, for the first time since we have had Medicare and Medicaid, actually give seniors complete coverage and complete control of their own health care.

Now, I am sure most people deal with someone in the health insurance business, and you know there is a lot of good people in the health insurance business, but they are not really in the health insurance business. They are in the health care management business, and that's what business the government is in with Medicare, Medicaid, and SCHIP.

I don't want the government in the business of managing my health care. I don't want the insurance companies in the business of managing and making my personal health care decisions. I want to make those after consulting with my doctors. That is the way it should be. That is the way it used to be, and my bill would allow people to do that.

It would provide the incentives to push people, young people, everyone actually, toward a health savings account with no limits on how much you can put in pretax. The employer pays in, and it is certainly a business deduction for him. It is a straight offset. And the health insurance policy under my bill would be owned by the individual employee. Since it would be owned by the individual employee, that means wherever they go, it is their policy. You don't need COBRA. I dealt with that when I left the bench to run for Congress. It was too expensive for a guy who was running for Congress who had cashed out all of his assets except his home and cars to run for Congress full time because I knew that we needed to make changes here.

So even though it has been reported that out of, I think, 32 Members of Congress from Texas, I had the least assets of any Member from Texas, I think I am the richest guy in the world because of the friends and the people I get to represent and the people with whom I deal in east Texas. But it is not going to be so good. We are in hard times, but it is going to be worse. It is not even going to be this good if this massive drain on the economy, a government takeover of this much of the economy kicks in at the worst possible time.

On the other hand, coming back to my bill, for seniors, we are getting scored what it would cost if all seniors elected and went to having the government put cash money in a health savings account that they control and then buying the catastrophic care policy above that. It is their policy. They control it. If they don't spend all of the HSA money, then it rolls over and they get to keep 10 percent of the money to encourage them to save. For many seniors, that won't be possible. They will go through the \$3,500. That will be controlled with a debit card that they con-

trol. It will be coded so it will only pay for health care items. Then they will have catastrophic coverage to cover above that. They have control, and they have coverage.

We know that the younger Americans in their twenties and thirties, if they start doing this, the vast majority of them should have so much in their health savings account by the time they hit retirement age, not only will they not want the government then stepping in and controlling their health care, they will not need it, because they will have enough money in their HSAs to make their own decisions even then and continue to buy their insurance and control the catastrophic care from there. And, under the bill, anything that is left in the health savings account can be left to the kids. If you want to gift some of your HSA out to someone else, whether you are related or not, as long as it stays health savings account money, it can go from one to another.

Another problem we have in this country that we are not dealing with, nobody seems to be talking about a whole lot, is that we authorize people to come into this country, and even though it is intentional, come into this country, get free health care and not charge them as they leave. Well, that doesn't happen under my bill, because in order to get a visa, whether a travel visa, a migrant worker visa, any kind of visa we may create in the future, in order to get a visa to come to this country, you will have to establish that you have health care coverage, the insurance, the HSA, you have coverage so it won't cost the U.S. Government taxpayers any money. That will be the price of coming into America.

So if you are going to live with somebody in the country, you can be under their health insurance. If you are going to be a migrant worker, your employer can buy the catastrophic care and provide a health savings account for the whole group. Those kinds of things can be done because we have to get off this course of bankrupting this country. It is not unlimited when you go spending money, spending money, spending money. The Soviet Union tried that. Apparently they were trying to get a \$100 billion loan from the United States and from others back at the time when the Soviet Union was in so much financial trouble. There have been articles written, information provided that seems to indicate that the U.S. may have told the Soviet Union, you know, we know in the past when these insurrections have occurred, uprisings have occurred in Poland, Czechoslovakia, Latvia, Estonia, when they have occurred before, you roll in the tanks and you crush them. But if you do that, we are probably not going to be able to loan you that \$100 billion to keep you afloat.

That is what happens when foreign countries are owed massive amounts of money by another country, they get to dictate to you whether or not you will



preserve and protect your union. Everyone in this body took an oath to do that, to follow the Constitution. We are supposed to protect this country from all enemies, foreign and domestic, and yet we are going out and begging the Chinese to keep buying our debt. There are indications that the Federal Reserve, although they have said they are not monetizing the debt, they have some third party buying debt that we put up for auction, and then the Federal Reserve buying that debt from the third party intermediary. So it is the same thing. We are monetizing the debt. That is the way it sure looks. That eventually causes inflation.

But in the meantime, for countries around the world, they can begin to tell us what we can do in our country and what we can't because they determine whether we have to declare, as the Soviet Union did, we are bankrupt. We can't borrow enough money any more to take care of our obligations and we can't print it fast enough to pay for them, so we are out of business. The states are on their own. That is basically what the Soviet Union did. So the 15 states that comprised the Soviet Union became independent countries.

You think about all of the blood that has been shed over the course of this country to get the opportunity to create a Constitution, to get the opportunity to govern ourselves.

You go back to the letter that John Adams wrote to his wife, Abigail, after the Declaration of Independence was made public on July 4. He wrote that marvelous letter, and I don't have it down verbatim, but basically saying we have within our grasp the chance to do what great philosophers and thinkers have only dreamed of, to govern ourselves and not have this big, massive government that controls all of the areas of our lives. We will be free to make our own decisions about our lives. This is a day that should be celebrated with parades and picnics.

□ 1800

Of course, he advocated the firing of guns. We do that with fireworks now instead of bullets, which I think is a better practice. But he recognized how incredible a gift God, our Creator, nature's God, all those references that were made in our founding documents. We were being blessed with something like never before in the history of mankind.

I was a little surprised to see after I came to Congress over at the State Department the original copy of the treaty of 1783, the Treaty of Paris. Of course, hopefully, people know, Mr. Speaker, that it was the surrender at Yorktown which ended the hostilities, but not until the Treaty of Paris of 1783 did England actually sign on agreeing to recognize the United States as a separate, independent country. This was an incredibly important document.

And I did not know, history major that I was, I didn't know until I saw in big, bold letters how the Treaty of

Paris started. It starts out, the big, bold letters say this: "In the name of the most holy and undivided Trinity." That struck me strange. Why would they start the Treaty of Paris with "In the name of the most holy and undivided Trinity?" It is an interesting way to start the document where the enemy during the war was going to recognize our independence.

But then you think about it. They needed to start that treaty with something so important to both sides that neither would dare break their oath. So they started with "In the name of the holy and undivided Trinity." That is how the Treaty of Paris of 1783 started.

We have come a long way. Now you can't even pray in public schools. Chuck Colson said it well. When you have the morals of Woodstock, you will have to expect some Columbines. If you think about that, when the morality of the country is basically "if it feels good, do it," you're going to have some irresponsible people, some anti-social personalities just decide, I wonder how it feels to steal other people's money, I wonder how it feels to go shoot some people in my school. When that's the morality of the day, we have got so far from our morality.

As we said, I personally think it is immoral for a government to go in and do what anyone else doing would be a crime, and that is, to pry cash from the cold, dead hands of a deceased on which he has paid taxes his whole life, and we take that money away through the death tax.

One of the things that maybe was the most important in driving me from the bench to run for Congress was along these lines of morality of the Federal Government. Because I noticed it seemed like I was seeing more and more women coming before me to be sentenced for committing felonies back in Texas. The stories they would tell there in court were so often the same.

The story I heard most often was, well, I was bored with high school. Sometimes it was a friend, sometimes, tragically, a family member, sometimes even more tragically, a mother said, well, heck, if you're bored with school, just drop out, and have a baby. The government will send you a check. You don't have to work. Just have a baby, and they will send you money.

So they drop out of high school, have a baby, the government would send them money. But it was not enough to really provide for a decent way of living for the mother and child. So the story I would hear, it was repeated often, was, gee, maybe if I have another baby, get another check, I can live easier on that. And it didn't work. And another baby. One lady I had sentenced had 15 kids, didn't even know where they all were.

How would that come about? Why would the Federal Government get into the business of providing incentives to lure young women into ruts from which they were given no hope of getting out? Well, it came about because

of a well-intended Congress back in the 1960s. They saw a problem with single women who had deadbeat dads who were not helping financially to take care of the kids that they had helped procreate. And so out of a feeling of compassion and wanting to help, they said, you know what, let's just give them a check. Let's be sympathetic. You mean-spirited people who don't want to just give these poor women a check, how dare you. So Congress voted to give them a check for every child they could have out of wedlock. And over 40 years later we have gotten what we paid for. You pay people to have babies out of wedlock, you're going to have a lot of babies.

And this is something that cuts across party lines. Both parties are guilty of participating in being accessories to what has happened and the incentives to do the wrong thing for the well-being of this country. We shouldn't have provided incentives to lure young women into a rut from which they could not pull themselves out and from which they would never reach their God-given potential.

Since the government knew if they finished high school they had a much better chance of making more money, the statistics were clear, they were able to go to college, they would make even more money, on average overall, so why not provide incentives to finish high school? Help them do that? Don't just give a check for every baby you can have out of wedlock. Why not incentives to finish school? That would have been more appropriate.

This week we took up and passed a bill out of committee. I did not vote for it. The intention, once again, is very good. I know the hearts of the people that are pushing it. They are good people. They mean so well. They want to help. They said, let's throw a billion dollars at trying to keep kids from committing crimes. It is so well intended. I know their hearts. They mean well. But it is another program that won't deal with the bottom line issue that when this government got in the business of breaking up homes and providing incentives for people to have single-parent homes instead of having a married couple in a home, we started doing terrible damage to the moral fabric of this country and this society. And it's ongoing. And we want to have studies done. Well, gee, why do you think these kids commit crimes?

I kept my own separate survey for a number of months there; and I picked, I guess arbitrarily, 5 years of age, and it was well over 80 percent of the people I sentenced for felonies had no relationship with the father after age 5. I'm not sure what it was. Most of them had had no relationship, really, with the father. And that seemed to be the greatest common denominator in the people that I sentenced.

So why was there a deadbeat father in so many situations? Well, the government had been paying people to create deadbeat dads that didn't help out.

This Congress did that, well intentioned, but, oh, the havoc that has been wreaked and reaped here, because that is what has been sowed.

Now, we come around here also, well intentioned, having met the President a couple of times, I believe he wants to do what he believes is good for the country, just like those people in the 1960s did, just like people this week in our Judiciary Committee did. They mean well.

Look at history. It is very clear. When you pay people to do an activity, you're going to get more of it. If you penalize people, as we have for years, with a marriage penalty, you're going to get less of it. If you penalize an activity, you're going to get less of it. That is the normal course of things. And both parties are also guilty of saying, oh, we are going to fix the marriage penalty. Both have done this. I got sick of listening to it over the years. Before I got to Congress, I hadn't really talked about it much. Some of us keep bringing it up. Nothing is happening.

Hopefully sometime it will, because it's a real easy fix. If you want to take care of the real marriage penalty in income tax, you say, do you know what? If you're married, it's your choice. You can file married filing jointly if that's better for you, or you can file as an individual so that there is no penalty for being married. Because when you combine two spouses' incomes, so often it kicks them up into a higher percentage category and they pay a lot of extra money just because they're married.

I've seen it with a lot of teachers. The teacher's income combined with a spouse's income is enough to kick them up, and they have to pay more for the privilege of being married. That's not the way it should be. That's not what studies indicate it should be.

I know the President and the Attorney General think they are doing a good thing for this country. If we are going to show the world how hospitable we are by bringing terrorists to our own soil because we are good and we want the whole world to see how good and noble we are, we will take people that have admitted killing innocent people, over 3,000, and we will give them more rights than they have ever been given in history. That is destructive. It puts our soldiers in harm's way. It is going to cause them to have to start becoming forensic experts while they are being shot at, in some situations they will also be expected to gather fingerprints, DNA evidence, this kind of thing. This was not well thought through.

Down in Guantanamo, I cannot imagine issuing an order to close that without even visiting that, but that is what has happened. And I visited the courtroom proceeding where the trial was going on for some terrorists. And they were interrupted by the Attorney General and the President. They just called a halt in the middle of the trial. That facility there, that courtroom, the fa-

cilities around it had so much. There is not another place like that anywhere in the continental, anywhere in the United States. That is an ideal place to try the terrorists.

And all those people who I know they were so torn up about what happened on 9/11. They really are very sincere when they say, I want to look them in the eye, I want to be the juror that says, You're sentenced to death. Well, I have done that. It doesn't bring the pleasure you might think.

But what it will bring when people say that's what I want to do, it will bring about a change of venue if the defendants, which they probably will, request it, because that will delay it further. It will give them further platforms to spread their poison that is so toxic. I know these things were intended well, but they can bring about the demise of a country. They have before. They have brought about the demise of civilization.

And you would have thought that when the stimulus package didn't do everything that it was supposed to have done—it didn't create any jobs. It created some hundreds of thousands, well, we have lost millions and millions—you would think that the people that had enough insight to see it wasn't going to do what was said that it would do, that the people that pushed that would come back and say, you were right. But that hasn't happened. I hope and pray it will.

Mr. Speaker, you brought down the gavel indicating my time has expired, so I recognize that and appreciate your indulgence.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LUCAS (at the request of Mr. BOEHNER) for today on account of personal reasons.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. POE of Texas, for 5 minutes, December 10.

Mr. JONES, for 5 minutes, December 10.

Mr. BURTON of Indiana, for 5 minutes, December 7, 8, 9 and 10.

#### ADJOURNMENT

Mr. GOHMERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until Monday, December 7, 2009, at 10:30 a.m., for morning-hour debate.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4837. A letter from the Under Secretary, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Defense Information Systems Agency, Case Number 06-01, pursuant to 31 U.S.C. 1341(a)(1)(A); to the Committee on Appropriations.

4838. A letter from the Administrator, Environmental Protection Agency, transmitting a report of a violation of the Antideficiency Act for the Asbestos Loan Program, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

4839. A letter from the Inspector General, Special Inspector General for Iraq Reconstruction, transmitting the Special Inspector General for Iraq Reconstruction (SIGIR) October 2009 Quarterly Report; jointly to the Committees on Appropriations and Foreign Affairs.

4840. A letter from the Under Secretary, Department of Defense, transmitting a report entitled "Department of Defense Earned Value Management: Performance, Oversight, and Governance"; to the Committee on Armed Services.

4841. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Spain pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4842. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Chile pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4843. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to United Arab Emirates pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4844. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Papua New Guinea pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4845. A letter from the Special Inspector General For The Troubled Asset Relief Program, transmitting the Office's quarterly report on the actions undertaken by the Department of the Treasury under the Troubled Asset Relief Program, the activities of SIGTARP, and SIGTARP's recommendations with respect to operations of TARP, for the period ending September 30, 2009; to the Committee on Financial Services.

4846. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to Section 62(a) of the Arms Export Control Act (AECA), notification concerning the Department of the Air Force's proposed extension of a lease of defense articles to the Government of Canada (Transmittal No. 05-09); to the Committee on Foreign Affairs.

4847. A letter from the Maj. Gen. USMC (ret.), Special Inspector General for Afghanistan Reconstruction, transmitting the fifth

quarterly report on the Afghanistan reconstruction, pursuant to Public Law 110-181, section 1229.; to the Committee on Foreign Affairs.

4848. A letter from the Associate General Counsel, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

4849. A letter from the Associate General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

4850. A letter from the Associate General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

4851. A letter from the Secretary, Department of Transportation, transmitting the Department's FY 2009 Performance and Accountability Report; to the Committee on Oversight and Government Reform.

4852. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a letter regarding earmark reviews by the Executive Branch; to the Committee on Oversight and Government Reform.

4853. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747SR, and 747SP Series Airplanes [Docket No.: FAA-2009-1000; Directorate Identifier 2009-NM-164-AD; Amendment 39-16070; AD 2008-10-07 R1] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4854. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-200C and 747-200F Series Airplanes [Docket No.: FAA-2008-1362; Directorate Identifier 2008-NM-150-AD; Amendment 39-16067; AD 2009-22-14] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4855. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hawker Beechcraft Corporation Model 1900, 1900C, and 1900D Airplanes [Docket No.: FAA-2008-1312; Directorate Identifier 2008-CE-065-AD; Amendment 39-16072; AD 2009-23-01] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4856. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200, -300, -300F, and -400ER Series Airplanes [Docket No.: FAA-2009-0314; Directorate Identifier 2008-NM-196-AD; Amendment 39-16066; AD 2009-22-13] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4857. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Aircraft Company 150 and 152 Series Airplanes [Docket No.: FAA-2007-27747; Directorate Identifier 2007-CE-030-AD; Amendment 39-16074; AD 2009-10-09 R1] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4858. A letter from the Program Analyst, Department of Transportation, transmitting

the Department's final rule — Airworthiness Directives; Saab AB, Saab Aerosystems Model SAAB 340A (SAAB/SF340A) and SAAB 340B Airplanes [Docket No.: FAA-2009-0910; Directorate Identifier 2009-NM-175-AD; Amendment 39-16046; AD 2008-09-06 R1] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4859. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; ATR Model ATR42 and ATR72 Airplanes [Docket No.: FAA-2009-0999; Directorate Identifier 2009-NM-155-AD; Amendment 39-16069; AD 2008-04-19 R1] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4860. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2C10 (Regional Jet Series 700, 701 & 702) Airplanes, Model CL-600-2D15 (Regional Jet Series 705) Airplanes, and Model CL-600-2D24 (Regional Jet Series 900) Airplanes [Docket No.: FAA-2009-0998; Directorate Identifier 2009-NM-198-AD; Amendment 39-16065; AD 2009-22-12] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4861. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; EMBRAER Model EMB-120, -120ER, -120FC, -120QC, and -120RT Airplanes [Docket No.: FAA-2009-1001; Directorate Identifier 2009-NM-166-AD; Amendment 39-16071; AD 2008-04-18 R1] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4862. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2C10 (Regional Jet Series 700, 701 & 702), CL-600-2D15 (Regional Jet Series 705), and CL-600-2D24 (Regional Jet Series 900) Airplanes [Docket No.: FAA-2009-0399; Directorate Identifier 2008-NM-226-AD; Amendment 39-16060; AD 2009-22-09] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4863. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; American Champion Aircraft Corp. Models 7ECA, 7FCAA, 7GCBC, 7KCAB, 8KCAB, and 8GCBC Airplanes [Docket No.: FAA-2009-0745; Directorate Identifier 2009-CE-036-AD; Amendment 39-16053; AD 2009-22-02] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4864. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Airplanes; and Boeing Model 757-200, -200PF, and -300 Series Airplanes [Docket No.: FAA-2008-1326; Directorate Identifier 2008-NM-141-AD; Amendment 39-16059; AD 2009-22-08] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4865. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France (ECF) Model EC 155B and EC155B1 Helicopters [Docket No.: FAA-2009-0952; Directorate Identifier 2009-SW-04-AD; Amendment 39-16055; AD 2009-22-04] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the

Committee on Transportation and Infrastructure.

4866. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Deutschland Ltd. & Co. KG Model BR700-715A1-30, BR700-715B1-30, and BR700-715C1-30 Turbofan Engines [Docket No.: FAA-2009-0045; Directorate Identifier 2007-NE-53-AD; Amendment 39-16041; AD 2009-21-04] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4867. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Hartzell Propeller Inc. (HC) (2Y(K,R))—() Series Propellers [Docket No.: FAA-2006-25244; Directorate Identifier 20068-NE-25-AD; Amendment 39-16054; AD 2009-22-03] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4868. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Deutschland Ltd. & Co. KG (RRD) Tay 650-15 Turbofan Engines [Docket No.: FAA-2007-0037; Directorate Identifier 2007-NE-41-AD; Amendment 39-16052; AD 2009-22-01] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4869. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300-600 Airplanes [Docket No.: FAA-2008-0979; Directorate Identifier 2008-NM-079-AD; Amendment 39-16051; AD 2009-21-12] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4870. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF6-80C2 Series Turbofan Engines [Docket No.: FAA-2009-0018; Directorate Identifier 2009-NE-01-AD; Amendment 39-16044; AD 2009-21-07] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4871. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 Airplanes [Docket No.: FAA-2009-0997; Directorate Identifier 2009-NM-158-AD; Amendment 39-16062; AD 2007-22-03 R1] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4872. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; International Aero Engines AG (IAE) V2500-A1, V2527E-A5, V2530-A5, and V2528-D5 Turbofan Engines [Docket No.: FAA-2009-0294; Directorate Identifier 2009-NE-08-AD; Amendment 39-16057; AD 2009-22-06] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4873. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A310 Airplanes [Docket No.: FAA-2009-0996; Directorate Identifier 2009-NM-156-AD; Amendment 39-16061; AD 2009-21-14 R1] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4874. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B4-601, B4-603, B4-605R, B4-620, B4-622, B4-622R, F4-605R, F4-622R, and C4-605R Varian F Series Airplanes Equipped with Simmonds Precision Products, Inc., Fuel Quantity Indicating System Sensors and In-Tank Harnesses Installed in Accordance with Supplemental Type Certificate (STC) ST00092BO [Docket No.: FAA-2009-0324; Directorate Identifier 2008-NM-186-AD; Amendment 39-16039; AD 2009-21-02] (RIN: 2120-AA64) received November 13, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4875. A letter from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, Agency for International Development, transmitting the Agency's fourth fiscal year 2009 quarterly report on unobligated and unexpended appropriated funds; jointly to the Committees on Foreign Affairs and Appropriations.

4876. A letter from the Secretary, Department of Health and Human Services, transmitting a waiver of certain Medicare, Medicaid, and State Children's Health Insurance Program Requirements, pursuant to 42 U.S.C. 1320b-5 Public Law 107-188, section 143(a)(1135)(f); jointly to the Committees on Ways and Means and Energy and Commerce.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADY of Pennsylvania: Committee on House Administration. H.R. 3224. A bill to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct a vehicle maintenance building at the vehicle maintenance branch of the Smithsonian Institution located in Suitland, Maryland, and for other purposes (Rept. 111-276 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. OBERSTAR: Committee on Transportation and Infrastructure. H.R. 2652. A bill to amend title 46, United States Code, to improve vessel safety, and for other purposes; with an amendment (Rept. 111-351). Referred to the Committee of the Whole House on the State of the Union.

Mr. OBERSTAR: Committee on Transportation and Infrastructure. H.R. 2650. A bill to amend title 14, United States Code, to modernize the leadership of the Coast Guard, to modernize the administration of marine safety by the Coast Guard, and for other purposes (Rept. 111-352). Referred to the Committee of the Whole House on the State of the Union.

Mr. BRADY of Pennsylvania: Committee on House Administration. H.R. 3542. A bill to direct the Architect of the Capitol to fly the flag of a State over the Capitol each year on the anniversary of the date of the State's admission to the Union; with an amendment (Rept. 111-353). Referred to the Committee of the Whole House on the State of the Union.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. MANZULLO:

H.R. 4189. A bill to amend the Internal Revenue Code of 1986 to accelerate the phase-in of the deduction for domestic production ac-

tivities; to the Committee on Ways and Means.

By Mr. MORAN of Virginia (for himself, Mrs. LOWEY, Mr. GEORGE MILLER of California, Ms. MCCOLLUM, Mr. GRIJALVA, Mr. MCGOVERN, Mr. HINCHHEY, and Mr. KENNEDY):

H.R. 4190. A bill to amend the Public Health Service Act to authorize the National Institute of Environmental Health Sciences to conduct a research program on endocrine disruption, to prevent and reduce the production of, and exposure to, chemicals that can undermine the development of children before they are born and cause lifelong impairment to their health and function, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DEFAZIO (for himself, Mr. ARCURI, Mr. PERLMUTTER, Mr. BRALEY of Iowa, Ms. SUTTON, Mr. FILNER, Mr. PERRIELLO, Mr. WELCH, Mr. HARE, Mr. KAGEN, Mr. RYAN of Ohio, Mr. HASTINGS of Florida, Ms. SCHAKOWSKY, Mr. DAVIS of Tennessee, Ms. HIRONO, Mr. RAHALL, Mr. STARK, Mr. CUMMINGS, Mr. JOHNSON of Georgia, Mr. GRIJALVA, Ms. EDWARDS of Maryland, Ms. SHEA-PORTER, Ms. KAPTUR, Mr. HINCHEY, Ms. SLAUGHTER, and Mr. SARBANES):

H.R. 4191. A bill to amend the Internal Revenue Code of 1986 to impose a tax on certain securities transactions to fund job creation and deficit reduction; to the Committee on Ways and Means, and in addition to the Committees on Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMPSON of California:

H.R. 4192. A bill to designate the Stornetta Public Lands as an Outstanding Natural Area to be administered as a part of the National Landscape Conservation System, and for other purposes; to the Committee on Natural Resources.

By Mr. ENGEL:

H.R. 4193. A bill to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security benefits under title II of the Social Security Act and to provide, in the case of elderly beneficiaries under such title, for an annual cost-of-living increase which is not less than 3 percent; to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DANIEL E. LUNGREN of California:

H.R. 4194. A bill to amend title 18, United States Code, to exempt qualifying law school students participating in legal clinics or externships from the application of the conflict of interest rules under section 205 of such title; to the Committee on the Judiciary.

By Mr. FARR (for himself, Mr. HONDA, Mr. PETRI, Mr. GARAMENDI, Ms. WATSON, and Mr. DRIEHAUS):

H.R. 4195. A bill to authorize the Peace Corps Commemorative Foundation to establish a commemorative work in the District of Columbia and its environs, and for other purposes; to the Committee on Natural Resources.

By Mr. LARSON of Connecticut (for himself and Mr. HINOJOSA):

H.R. 4196. A bill to create jobs through the hiring of new faculty and counselors at community colleges; to the Committee on Education and Labor.

By Mr. ADLER of New Jersey (for himself, Mr. HALL of New York, Ms. KIL-

PATRICK of Michigan, Mr. MCGOVERN, Mr. MCNERNEY, Mrs. MCMORRIS RODGERS, Mr. BURTON of Indiana, and Ms. KOSMAS):

H.R. 4197. A bill to authorize the Gold Star Mothers National Monument Foundation to establish a national monument in the District of Columbia; to the Committee on Natural Resources.

By Ms. BERKLEY (for herself, Mr. BRADY of Texas, Ms. JENKINS, Mr. WALDEN, and Ms. TITUS):

H.R. 4198. A bill to establish a program to reunite bondholders with matured unredeemed United States savings bonds; to the Committee on Ways and Means.

By Mr. BUTTERFIELD (for himself, Mr. JONES, Mr. KISSELL, Mr. MCINTYRE, Mr. COBLE, Mr. MILLER of North Carolina, Mr. ALEXANDER, and Mrs. MCMORRIS RODGERS):

H.R. 4199. A bill to ensure patient choice in pharmacies by regulating pharmacy benefit managers and to establish a program to improve access to prescription drugs for certain individuals; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. CHU (for herself, Mr. SCHIFF, Ms. LINDA T. SANCHEZ of California, Ms. ROYBAL-ALLARD, and Mrs. NAPOLITANO):

H.R. 4200. A bill to prepare a feasibility study and implement demonstration projects to restore the San Gabriel River Watershed in California; to the Committee on Natural Resources.

By Mr. CUELLAR:

H.R. 4201. A bill to amend the Internal Revenue Code of 1986 to extend the special rule for contributions of book inventory to public schools; to the Committee on Ways and Means.

By Ms. EDWARDS of Maryland (for herself, Mr. CARNAHAN, and Mr. DRIEHAUS):

H.R. 4202. A bill to establish centers of excellence for green infrastructure, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HALL of New York:

H.R. 4203. A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide veterans certain educational assistance payments through direct deposit; to the Committee on Veterans' Affairs.

By Mr. KENNEDY (for himself, Mr. TIM MURPHY of Pennsylvania, Mr. YARMUTH, and Mr. MAFFEI):

H.R. 4204. A bill to establish national centers of excellence for the treatment of depressive and bipolar disorders; to the Committee on Energy and Commerce.

By Mr. LOEBSACK (for himself, Mr. BOSWELL, Mr. LATHAM, Mr. BRALEY of Iowa, and Mr. KING of Iowa):

H.R. 4205. A bill to extend certain housing-related deadlines in the Heartland Disaster Tax Relief Act of 2008; to the Committee on Ways and Means.

By Mr. MEEK of Florida (for himself and Ms. SCHAKOWSKY):

H.R. 4206. A bill to authorize the Secretary of Agriculture to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes; to the Committee on Foreign Affairs.

By Ms. NORTON:

H.R. 4207. A bill to authorize improvements in the operation of the government of the District of Columbia, and for other purposes; to the Committee on Oversight and Government Reform, and in addition to the Committees on Transportation and Infrastructure, Natural Resources, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PERRIELLO:

H.R. 4208. A bill to amend the Internal Revenue Code of 1986 to increase the limitation on the reduction in fair market value of real property used for farming, or in another trade or business, for purposes of estate taxes; to the Committee on Ways and Means.

By Mr. TEAGUE (for himself and Mrs. LUMMIS):

H.R. 4209. A bill to amend the Internal Revenue Code of 1986 to suspend for an additional year the taxable income limit on percentage depletion for oil and natural gas from marginal wells; to the Committee on Ways and Means.

By Mr. THOMPSON of California (for himself and Mr. WU):

H.R. 4210. A bill to amend the Internal Revenue Code of 1986 to provide for an energy investment credit for energy storage property connected to the grid, and for other purposes; to the Committee on Ways and Means.

By Mr. THOMPSON of California (for himself and Ms. WOOLSEY):

H.R. 4211. A bill to amend the Internal Revenue Code of 1986 to treat nonrecourse small business investment company loans from the Small Business Administration as amounts at risk for purposes of determining the deduction for losses; to the Committee on Ways and Means.

By Ms. ROS-LEHTINEN (for herself, Mr. McKEON, Mr. BOEHNER, Mr. PENCE, Mrs. McMORRIS RODGERS, Mr. PRICE of Georgia, Mr. McCOTTER, Mr. HOEKSTRA, Mr. WILSON of South Carolina, Mr. TURNER, Mr. FRANKS of Arizona, Mr. GALLEGLY, Mr. BISHOP of Utah, Mr. BURTON of Indiana, Mr. BOOZMAN, Mr. BILIRAKIS, Mr. INGLIS, Mr. LAMBORN, Mr. MILLER of Florida, Mr. FLEMING, Ms. GRANGER, Mr. THORNBERRY, Mr. KLINE of Minnesota, Mr. ADERHOLT, Mrs. MYRICK, Mrs. BACHMANN, Mr. WITTMAN, Mr. BROWN of Georgia, Mr. PUTNAM, Mr. MACK, Mr. BONNER, Mr. BARRETT of South Carolina, Mr. SESSIONS, Mr. LINDER, Mr. SMITH of New Jersey, Mr. COBLE, Mr. NEUGEBAUER, Mr. TIAHRT, Mr. COFFMAN of Colorado, Mr. SOUDER, Mr. GARRETT of New Jersey, Mr. CAO, Mr. MCCAUL, Mr. FORTENBERRY, Mrs. CAPITO, Mr. ISSA, Mr. GINGREY of Georgia, Mr. SAM JOHNSON of Texas, Mr. GRAVES, Ms. FOXX, Mr. TIBERI, Mr. AKIN, Mr. CAMPBELL, Mr. ROGERS of Michigan, Mr. CONAWAY, Mr. ROE of Tennessee, Mr. ALEXANDER, and Mr. POSEY):

H. Con. Res. 217. Concurrent resolution expressing the sense of Congress that the President, in negotiating any new bilateral strategic arms agreement with the Russian Federation, shall ensure the continued deterrence capability of the United States strategic arsenal and flexibility in the allocation of its components in the event that third countries may pursue the deployment of significant and technologically advanced nuclear strategic forces not covered by such a United States-Russian arms agreement; to the Committee on Foreign Affairs.

By Mr. COFFMAN of Colorado (for himself, Mr. PERLMUTTER, and Mr. LUETKEMEYER):

H. Res. 943. A resolution expressing the sense of the House of Representatives that the Federal banking regulators should, with respect to well-managed community-based depository institutions, permit appropriate capital forbearance, troubled debt restructuring accounting practices, and other time-tested measures that would allow such institutions to continue to provide for the financial vitality for our Nation's small businesses and family farms; to the Committee on Financial Services.

By Mr. PETERS (for himself, Mr. WOLF, Ms. ESHOO, Mr. DINGELL, Mr. MCGOVERN, Mr. CARDOZA, Mr. KIRK, Mr. FILNER, Mr. SMITH of New Jersey, Mr. LEVIN, Mr. MCCOTTER, Mr. SCHOCK, Mr. OLVER, Mr. HASTINGS of Florida, Ms. SCHAKOWSKY, Mr. WEXLER, Mr. INGLIS, Ms. WATSON, Ms. SPEIER, Mr. SHULER, Mr. MURPHY of New York, Mr. ELLISON, Mr. WATT, Mr. MAFFEI, Mr. MILLER of North Carolina, Ms. RICHARDSON, Ms. KILROY, Mr. CONNOLLY of Virginia, Ms. DEGETTE, Mr. ANDREWS, Mr. ADLER of New Jersey, Mr. CROWLEY, Mr. KLEIN of Florida, Ms. KILPATRICK of Michigan, Mr. MEEKS of New York, Mr. CARNAHAN, Mr. SIRES, Mr. MCMAHON, Ms. WOOLSEY, Ms. JACKSON-LEE of Texas, and Ms. BERKLEY):

H. Res. 944. A resolution expressing the sense of the House of Representatives on religious minorities in Iraq; to the Committee on Foreign Affairs.

By Mr. LAMBORN (for himself, Mr. YOUNG of Alaska, Mr. McCOTTER, Ms. FOXX, Mr. LATTI, Mr. FRANKS of Arizona, Mr. CHAFFETZ, Mrs. BLACKBURN, Mr. HARPER, Mr. PITTS, Mrs. LUMMIS, Ms. FALLIN, Mr. BRADY of Texas, Mr. KING of Iowa, Mr. POSEY, Mr. LUETKEMEYER, Mr. CULBERSON, Mr. BARTON of Texas, Mr. GINGREY of Georgia, Mr. BISHOP of Utah, Mr. BARTLETT, Mr. TIBERI, Mr. BACHUS, Mr. BROWN of Georgia, Mr. COLE, Mr. GARRETT of New Jersey, Mr. COFFMAN of Colorado, and Mr. SENSENBRENNER):

H. Res. 945. A resolution expressing the sense of the House of Representatives regarding the conditions for the United States becoming a signatory to or negotiating any international agreement on greenhouse gas emissions under the United Nations Framework Convention on Climate Change; to the Committee on Foreign Affairs.

By Mr. RUSH (for himself, Mr. CONYERS, Mr. WATT, Ms. JACKSON-LEE of Texas, Mr. STUPAK, Mr. TOWNS, Mr. GENE GREEN of Texas, Mr. COHEN, Ms. HARMAN, Ms. WATERS, Mr. LIPINSKI, Ms. KAPTUR, Mrs. MILLER of Michigan, Mr. COSTELLO, Mr. DAVIS of Illinois, Ms. KILPATRICK of Michigan, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JACKSON of Illinois, Mr. SCOTT of Georgia, Mr. SERRANO, Mr. CARSON of Indiana, Ms. CLARKE, Mr. RUPPERSBERGER, Mr. MCHEENRY, Mr. CLAY, Mr. BUTTERFIELD, Mr. DEFazio, and Ms. FUDGE):

H. Res. 946. A resolution recognizing that the rate of unemployment in the United States has reached the level of a national crisis, and for other purposes; to the Committee on Education and Labor.

By Ms. LEE of California (for herself, Mr. GRIJALVA, Ms. JACKSON-LEE of Texas, Ms. SLAUGHTER, Mr. RUSH, Mr. JOHNSON of Georgia, and Ms. DEGETTE):

H. Res. 947. A resolution expressing commitment to the objectives of the Program of Action of the International Conference on Population and Development; to the Committee on Foreign Affairs.

By Mr. LEWIS of Georgia (for himself, Ms. LEE of California, Mr. RUSH, Mr. PAYNE, and Mr. RANGEL):

H. Res. 948. A resolution commending the participants and organizers of the World March for Peace and Nonviolence; to the Committee on Foreign Affairs.

By Mr. NEUGEBAUER (for himself, Mr. SMITH of Texas, Mr. CHAFFETZ, Mr. OLSON, Ms. JENKINS, Mrs. BACHMANN, Mr. PAUL, Mr. REHBERG, Mr. GINGREY of Georgia, Mr. LAMBORN, Ms. GRANGER, Mrs. SCHMIDT, Mr. HENSARLING, Mrs. LUMMIS, Mr. PITTS, Mr. HARPER, Mrs. BLACKBURN, Mr. KLINE of Minnesota, Mr. CONAWAY, Mr. BROWN of Georgia, Mr. GOHMERT, Mr. BARTON of Texas, Mr. CULBERSON, Mr. AUSTRIA, Mr. BILBRAY, Mr. LUETKEMEYER, Mr. POSEY, Mr. JORDAN of Ohio, Mr. KING of Iowa, Mr. MCCARTHY of California, Mr. GARRETT of New Jersey, Mr. WALDEN, Mr. WITTMAN, Mr. RYAN of Wisconsin, Mr. HALL of Texas, Mr. AKIN, Ms. FALLIN, Mr. SMITH of Nebraska, Mr. ROE of Tennessee, Mr. COFFMAN of Colorado, Mr. MARCHANT, Mr. SAM JOHNSON of Texas, Mr. SESSIONS, Mr. JONES, and Mr. GOODLATTE):

H. Res. 949. A resolution amending the Rules of the House of Representatives to require a two-thirds vote on a stand-alone bill to increase the statutory limit on the public debt; to the Committee on Rules.

## MEMORIALS

Under clause 4 of Rule XXII,

221. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 89 memorializing Congress to require that 2010 census forms include a question on citizenship; to the Committee on Oversight and Government Reform.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Ms. SCHAKOWSKY introduced a bill (H.R. 4212) for the relief of Rigoberto Padilla; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 17: Mr. PUTNAM.  
H.R. 176: Mr. CONYERS.  
H.R. 205: Mr. BARTON of Texas, Mr. WAMP, and Mr. CHAFFETZ.  
H.R. 413: Mr. CUELLAR, Mr. LANCE, Ms. NORTON, Mr. LANGEVIN, Mr. CARNAHAN, and Mr. PATRICK J. MURPHY of Pennsylvania.  
H.R. 417: Mr. JACKSON of Illinois, Mr. GRIJALVA, and Mr. SABLON.  
H.R. 537: Ms. BERKLEY.  
H.R. 571: Mr. BLUNT.  
H.R. 644: Mr. KUCINICH and Mr. HODES.  
H.R. 775: Mr. BURGESS and Ms. FUDGE.  
H.R. 836: Mr. ANDREWS and Mr. CARSON of Indiana.  
H.R. 1020: Mr. CAPUANO.  
H.R. 1051: Mr. WITTMAN.  
H.R. 1067: Mr. SESSIONS.  
H.R. 1079: Mr. GINGREY of Georgia.  
H.R. 1132: Ms. WASSERMAN SCHULTZ, Mr. DONNELLY of Indiana, and Mr. POLIS of Colorado.

H.R. 1189: Mr. ROTHMAN of New Jersey.  
H.R. 1204: Mr. WALZ.  
H.R. 1215: Mr. McDERMOTT.  
H.R. 1250: Mr. PAYNE and Mr. LATTA.  
H.R. 1326: Mr. HARE and Mr. MICHAUD.  
H.R. 1402: Mr. BRIGHT.  
H.R. 1454: Mr. CROWLEY.  
H.R. 1557: Mr. THORNBERRY.  
H.R. 1584: Mr. BILIRAKIS.  
H.R. 1613: Mr. KAGEN.  
H.R. 1719: Ms. CHU, Mr. ABERCROMBIE, Mr. ELLISON, and Ms. PINGREE of Maine.  
H.R. 1829: Mr. HARE.  
H.R. 1835: Mr. LATOURETTE, Mr. MARSHALL, Mr. OLSON, Ms. WATSON, and Mr. COSTA.  
H.R. 1908: Mr. LINDER and Mr. PERLMUTTER.  
H.R. 1925: Ms. EDWARDS of Maryland and Mr. HIMES.  
H.R. 1932: Mr. GORDON of Tennessee.  
H.R. 1939: Mr. GERLACH.  
H.R. 1960: Mr. WAMP and Mr. CHAFFETZ.  
H.R. 1964: Ms. CLARKE.  
H.R. 2000: Mr. SHULER and Mr. LEVIN.  
H.R. 2006: Mr. PATRICK J. MURPHY of Pennsylvania, Mr. CARNEY, and Mr. RYAN of Ohio.  
H.R. 2054: Mr. ETHERIDGE.  
H.R. 2132: Mr. McMAHON.  
H.R. 2159: Mr. WEINER and Mr. ENGEL.  
H.R. 2243: Mr. QUIGLEY.  
H.R. 2256: Ms. SCHAKOWSKY and Mr. HILL.  
H.R. 2280: Mr. REHBERG.  
H.R. 2382: Mr. DELAHUNT.  
H.R. 2404: Mrs. MALONEY.  
H.R. 2443: Mr. RAHALL.  
H.R. 2478: Mr. GARRETT of New Jersey and Mr. STARK.  
H.R. 2480: Mr. FRELINGHUYSEN, Mr. ARCURI, and Mr. MICHAUD.  
H.R. 2511: Mr. CARNAHAN.  
H.R. 2521: Ms. SLAUGHTER.  
H.R. 2578: Mr. MICHAUD.  
H.R. 2628: Ms. FALLIN.  
H.R. 2676: Mr. ELLSWORTH.  
H.R. 2788: Mr. GORDON of Tennessee.  
H.R. 2807: Mr. QUIGLEY and Mr. OLVER.  
H.R. 2829: Mr. GRIJALVA.  
H.R. 2855: Ms. BALDWIN and Ms. SCHAKOWSKY.  
H.R. 2932: Ms. BALDWIN.  
H.R. 3024: Mr. MORAN of Virginia, Ms. JACKSON-LEE of Texas, Mr. LANGEVIN, and Ms. SCHWARTZ.  
H.R. 3035: Mr. FRANK of Massachusetts.  
H.R. 3129: Mr. BURTON of Indiana and Mr. SOUDER.  
H.R. 3227: Mr. ROGERS of Kentucky and Mr. MASSA.  
H.R. 3268: Mrs. McMORRIS RODGERS.  
H.R. 3401: Mr. JACKSON of Illinois, Mrs. DAVIS of California, Mr. FILNER, Ms. SCHAKOWSKY, Ms. CLARKE, Ms. LORETTA SANCHEZ of California, Ms. PINGREE of Maine, and Ms. ROS-LEHTINEN.  
H.R. 3463: Mr. SHIMKUS, Mr. CHAFFETZ, and Mr. WAMP.  
H.R. 3491: Mr. HINCHEY.  
H.R. 3524: Mr. CARNEY.  
H.R. 3545: Mr. NADLER of New York.  
H.R. 3564: Mr. BACA.  
H.R. 3567: Mr. CLEAVER.  
H.R. 3589: Mr. SMITH of New Jersey.  
H.R. 3650: Mr. ADLER of New Jersey.  
H.R. 3669: Mr. COURTNEY.  
H.R. 3672: Mr. RYAN of Ohio.  
H.R. 3697: Mr. KILDEE, Mr. ISSA, and Mr. KLINE of Minnesota.  
H.R. 3699: Mr. CAPUANO.  
H.R. 3715: Mrs. NAPOLITANO.  
H.R. 3734: Mr. BECERRA and Mr. HINOJOSA.  
H.R. 3749: Mr. BOSWELL.  
H.R. 3758: Mr. WALDEN, Ms. WASSERMAN SCHULTZ, Ms. JENKINS, Mr. PLATTS, Mr. ROGERS of Kentucky, Mr. CARNEY, Mr. LAMBORN, Mr. DUNCAN, Mr. SIMPSON, and Mr. LEE of New York.  
H.R. 3764: Mr. NYE, Mr. GRIJALVA, and Mr. QUIGLEY.

H.R. 3905: Mr. HIMES, Ms. GINNY BROWN-WAITE of Florida, Mr. TIBERI, and Mr. WALDEN.  
H.R. 3918: Mr. COSTA.  
H.R. 3928: Mr. KENNEDY.  
H.R. 3936: Mr. MOORE of Kansas.  
H.R. 3982: Mr. JACKSON of Illinois, Mr. POLIS of Colorado, Mr. CARSON of Indiana, Mr. BERMAN, and Ms. EDWARDS of Maryland.  
H.R. 4004: Ms. SCHAKOWSKY.  
H.R. 4044: Mr. PETERSON.  
H.R. 4054: Mr. BOOZMAN.  
H.R. 4067: Mr. SCHRADER, Mr. HALL of New York, Mrs. KIRKPATRICK of Arizona, Ms. KILROY, Mr. POSTER, and Mr. PERRIELLO.  
H.R. 4070: Mr. HARE, Ms. HERSETH SANDLIN, Ms. SHEA-PORTER, Mr. JOHNSON of Illinois, Mr. BRALEY of Iowa, and Mr. LOEBSSACK.  
H.R. 4077: Mr. KISSELL.  
H.R. 4088: Mr. MARIO DIAZ-BALART of Florida, Mr. CALVERT, Mr. MCCOTTER, Mr. GALLEGLY, Mr. BACHUS, Mr. POE of Texas, Mr. KISSELL, Ms. TSONGAS, and Mr. DAVIS of Illinois.  
H.R. 4089: Mr. FORTENBERRY.  
H.R. 4092: Mr. GRIJALVA.  
H.R. 4100: Mr. DEAL of Georgia.  
H.R. 4114: Mr. QUIGLEY.  
H.R. 4115: Mr. McMAHON, Mr. BRALEY of Iowa, and Mr. HONDA.  
H.R. 4123: Mr. RANGEL, Mr. DAVIS of Illinois, and Mr. FILNER.  
H.R. 4127: Mr. FLEMING, Mr. THORNBERRY, and Mrs. MYRICK.  
H.R. 4131: Mr. MCGOVERN, Mr. KAGEN, Mr. FALOMAVAEGA, and Mr. GRIJALVA.  
H.R. 4134: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. REYES.  
H.R. 4148: Mr. COURTNEY.  
H.R. 4149: Mr. SALAZAR.  
H.R. 4155: Mr. KING of New York, Mr. MAFFEI, Mr. SNYDER, and Mr. PERRIELLO.  
H.R. 4157: Mr. TERRY and Mr. YOUNG of Florida.  
H.R. 4159: Mr. CONYERS.  
H.R. 4162: Ms. JACKSON-LEE of Texas, Mr. HERGER, Mr. REICHERT, Mr. HASTINGS of Washington, and Mrs. McMORRIS RODGERS.  
H.R. 4163: Mr. CONYERS and Mr. STARK.  
H.R. 4165: Mr. HERGER, Mr. WU, Mr. DEFAZIO, Mr. McDERMOTT, Mr. SIMPSON, Mrs. McMORRIS RODGERS, Mr. HASTINGS of Washington, and Mr. BAIRD.  
H.R. 4171: Mr. RODRIGUEZ, Mr. SCHAUER, and Mr. ADLER of New Jersey.  
H.R. 4175: Mr. CLAY.  
H.R. 4179: Ms. NORTON.  
H.R. 4187: Mr. WITTMAN.  
H.R. 4188: Mr. AL GREEN of Texas.  
H. Con. Res. 73: Mr. TOWNS and Mr. RUSH.  
H. Con. Res. 98: Ms. SLAUGHTER.  
H. Con. Res. 128: Ms. WATERS.  
H. Con. Res. 198: Ms. DEGETTE, Mr. GENE GREEN of Texas, Mr. BARROW, Mr. TOWNS, Mr. FRANK of Massachusetts, Mr. SESSIONS, Mr. RUSH, Mr. BONNER, Mr. KAGEN, and Mrs. MYRICK.  
H. Con. Res. 216: Ms. RICHARDSON, Mr. JACKSON of Illinois, Mr. CONYERS, Mr. MEEKS of New York, and Ms. WOOLSEY.  
H. Res. 35: Mr. SHERMAN, Mr. HONDA, Mr. MICHAUD, Mrs. HALVORSON, Mr. WAXMAN, Mr. KANJORSKI, Mrs. DAHLKEMPER, Mr. ROTHMAN of New Jersey, Mr. STUPAK, Mr. NEAL of Massachusetts, Mr. HOLDEN, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. BRADY of Pennsylvania, Mr. CROWLEY, Mr. HINOJOSA, and Mr. WHITFIELD.  
H. Res. 55: Mr. COSTA, Mr. CASTLE, Mr. PRICE of Georgia, Mr. MARCHANT, Mr. DAVIS of Tennessee, Mr. WAMP, Mr. TERRY, Mr. BUYER, and Mrs. MYRICK.  
H. Res. 278: Ms. WOOLSEY.  
H. Res. 458: Mr. PASTOR of Arizona.  
H. Res. 759: Mr. DEAL of Georgia and Mr. BOOZMAN.  
H. Res. 779: Mr. EHLERS, Mr. PLATTS, Mrs. MILLER of Michigan, Mr. SOUDER, Mr. PUT-

NAM, Mr. FRELINGHUYSEN, Mr. WHITFIELD, Mr. JONES, Mrs. SCHMIDT, Mr. MCCARTHY of California, Mr. SHIMKUS, Mrs. CAPITO, Mr. HOEKSTRA, Mr. KING of Iowa, Mr. WILSON of South Carolina, Mrs. BONO MACK, Mr. MACK, Mrs. BLACKBURN, Mr. ROE of Tennessee, Mrs. LUMMIS, Mr. SMITH of Nebraska, Ms. EDWARDS of Maryland, Ms. KAPTUR, Mr. PRICE of Georgia, and Mr. AKIN.  
H. Res. 812: Mr. FRELINGHUYSEN, Mr. LUETKEMEYER, Mr. SRES, Mr. SESSIONS, and Mr. PAYNE.  
H. Res. 852: Mr. PITTS, Mr. JONES, and Mr. ROONEY.  
H. Res. 860: Ms. MOORE of Wisconsin, Ms. PINGREE of Maine, Mrs. HALVORSON, Mr. FOSTER, Mr. CONNOLLY of Virginia, Mr. MCINTYRE, and Mr. MURPHY of New York.  
H. Res. 864: Mr. BOSWELL, Mr. GORDON of Tennessee, Mr. HALL of New York, Mr. ISRAEL, Mr. LARSON of Connecticut, Mr. MORAN of Virginia, Mr. NYE, Mr. OBERSTAR, Mr. TONKO, Mr. VAN HOLLEN, and Ms. WASSERMAN SCHULTZ.  
H. Res. 869: Mr. SCHOCK.  
H. Res. 873: Mr. BLUNT and Mr. FILNER.  
H. Res. 900: Mr. BOOZMAN, Mr. WITTMAN, Mr. JOHNSON of Illinois, Mr. LOBIONDO, and Mr. WOLF.  
H. Res. 910: Mr. DAVIS of Illinois.  
H. Res. 911: Mrs. BACHMANN, Mr. COLE, Mr. AKIN, Mr. ROYCE, Mr. JORDAN of Ohio, Mr. PUTNAM, Mr. COFFMAN of Colorado, Mr. PLATTS, Mrs. BLACKBURN, Mr. BRADY of Texas, Mr. THORNBERRY, Mr. SESSIONS, Mr. MCCLINTOCK, Mr. CALVERT, Mr. McKEON, Mr. MCCARTHY of California, Mr. KINGSTON, Mr. CAMP, Mr. GINGREY of Georgia, Mr. BARRETT of South Carolina, Mr. TIAHRT, Mr. SHUSTER, Mr. HUNTER, Mr. COBLE, Mrs. BIGGERT, and Mr. CULBERSON.  
H. Res. 913: Mr. VAN HOLLEN and Mr. WILSON of South Carolina.  
H. Res. 924: Mr. THORNBERRY, Mr. AKIN, Mr. BISHOP of Utah, Mr. MILLER of Florida, Mr. PLATTS, Mr. COFFMAN of Colorado, Mr. ROGERS of Alabama, Mr. FRANKS of Arizona, Mr. ROONEY, Mr. WILSON of South Carolina, Mr. KLINE of Minnesota, and Mr. WITTMAN.  
H. Res. 925: Mr. WILSON of South Carolina and Mr. BISHOP of New York.  
H. Res. 929: Mr. FILNER, Mr. CUMMINGS, Mr. BACA, Ms. BERKLEY, Mr. SCOTT of Virginia, Mr. MEEKS of New York, Mrs. MALONEY, Ms. CLARKE, Mr. CONYERS, Mr. ABERCROMBIE, Ms. SPEIER, and Ms. ZOE LOFGREN of California.  
H. Res. 932: Mr. GRIJALVA and Ms. CORRINE BROWN of Florida.  
H. Res. 933: Mr. STUPAK.  
H. Res. 934: Mr. STUPAK.  
H. Res. 936: Mr. BRIGHT, Mr. PLATTS, and Mr. HALL of New York.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

##### OFFERED BY Mr. PETERSON

The provisions that warranted a referral to the Committee on Agriculture, in H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009, do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

##### OFFERED BY Mr. CONYERS

The provisions that warranted a referral to the Committee on Judiciary, in H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009, do not contain any congressional earmarks, limited tax benefits, or



limited tariff benefits as defined in clause 9 of rule XXI.

OFFERED BY MR. WAXMAN

The provisions that warranted a referral to the Committee on Energy and Commerce, in H.R. 4173, the "Wall Street Reform and Consumer Protection Act of 2009," do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

OFFERED BY MR. FRANK OF MASSACHUSETTS

The provisions that warranted a referral to the Committee on Financial Services, in H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009, do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

OFFERED BY MR. SPRATT

The provisions that warranted a referral to the Committee on the Budget in H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009, do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

OFFERED BY MR. TOWNS

The provisions that warranted a referral to the Committee on Oversight and Government Reform, in H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009, do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

OFFERED BY MR. RANGEL

The provisions that warranted a referral to the Committee on Ways and Means, in H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009, do not contain any congressional earmarks, limited tax bene-

fits, or limited tariff benefits as defined in clause 9 of Rule XXI.

OFFERED BY MS. SLAUGHTER

The provisions that warranted a referral to the Committee on Rules, in H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009, do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1880: Mr. CLAY.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the clerk's desk and referred as follows:

85. The SPEAKER presented a petition of Seventh Legislature of the State of Yap, Micronesia, relative to Resolution No. 7-156 expressing a deep sense of sadness and remorse to the U.S. Congress and family of the late Senator Edward M. Kennedy over his untimely passing; to the Committee on Oversight and Government Reform.

86. Also, a petition of New Orleans City Council, Louisiana, relative to Resolution R-09-574 urging the U.S. Congress and the President of the United States to authorize and fully fund Option 2 for the three lake front pumping stations; to the Committee on Transportation and Infrastructure.

#### DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petition was filed:

Petition 8, December 2, 2009, by Mr. DEVIN NUNES on the bill (H.R. 3105) was signed by the following Members: Devin Nunes, Kevin McCarthy, Daniel E. Lungren, Patrick J. Tiberi, John Boozman, Peter J. Roskam, Wally Herger, Henry E. Brown, Jr., Tom McClintock, Lee Terry, Edward R. Royce, Dean Heller, Darrell E. Issa, John Campbell, Steve King, Paul C. Brown, Duncan Hunter, Thaddeus G. McCotter, Pete Sessions, Ken Calvert, Brian P. Bilbray, Doug Lamborn, Sue Wilkens Myrick, Dana Rohrabacher, Doc Hastings, George Radanovich, Jason Chaffetz, Paul Ryan, Trent Franks, Mary Bono Mack, Jim Costa, Gary G. Miller, Howard P. "Buck" McKeon, Jerry Lewis, John Sullivan, J. Gresham Barrett, David P. Roe, Peter Hoekstra, Adrian Smith, Jo Ann Emerson, Steve Austria, Ander Crenshaw, Louie Gohmert, Glenn Thompson, Cynthia M. Lummis, John Shimkus, Geoff Davis, Tom Cole, and Gregg Harper.

#### DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petition:

Petition 7 by Mr. HOEKSTRA on the bill (H.R. 2294): Mike Pence, Aaron Schock, Henry E. Brown, Jr., Darrell E. Issa, Michael T. McCaul, Roscoe G. Bartlett, Joe Barton, John Sullivan, and Sam Graves.



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 111<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 155

WASHINGTON, THURSDAY, DECEMBER 3, 2009

No. 178

## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Father in Heaven, You know all the roads by which each of us has come to serve in our government's legislative branch. You know the pathway our feet now are treading and what the future holds, for You are the architect of our destinies.

Give our Senators strength sufficient for this day. Remind them that their times are in Your hands. Infuse them with the blessed assurance that You are the love that never forgets, the light that never fails, and the life that never ends. Keep them close to You and open to each other as they do the tasks that preserve our freedoms. We pray in Your sovereign Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, December 3, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will resume consideration of H.R. 3590, the health reform legislation. There will be up to 10 minutes, equally divided, between the managers of the bill. The remaining time until 11:45 a.m. will be divided and controlled equally between Senator MIKULSKI and the minority leader or their designees.

At 11:45 a.m., this morning, the Senate will proceed to a series of two roll-call votes. The first vote will be in relation to the Mikulski amendment, No. 2791, as modified, to be followed by a vote on the Murkowski amendment, No. 2836.

Following those votes, the time until 2:45 p.m. will be equally divided and controlled between Senators BAUCUS and MCCAIN or their designees. At 2:45 p.m., the Senate will proceed to vote in relation to the Bennet of Colorado amendment, No. 2826, to be followed by a vote in relation to the McCain motion to commit.

All four votes today will be subject to a 60-vote affirmative threshold for adoption.

Mr. McCONNELL. Would my friend yield for a question before making his opening remarks?

Mr. REID. I would be happy to yield.

Mr. McCONNELL. I would say to my friend, since it is Thursday, my Mem-

bers are prepared to be here Saturday and Sunday, but many would like to know whether there will be an opportunity to go to church Sunday morning.

Mr. REID. Of course. I think it very likely we wouldn't come in until noon, or somewhere around noon on Sunday.

I would indicate to my friend it appears that the next opportunity for amendment will be when we complete this. It is my understanding Senator BEN NELSON is ready, he has an amendment, and I think we have given it to your staff. This may be one where it is sponsored by people on your side also, and then we will wait to see what your next amendment will be.

Mr. McCONNELL. I would say to my friend, obviously, I assume we are going to continue to proceed with your side offering one and my side offering one.

Mr. REID. We will show those to each other before that happens.

Mr. McCONNELL. All right.

### HEALTH CARE REFORM

Mr. REID. Madam President, we in this Chamber, a lot of times, talk as if no one is listening to what we are saying, as though we are talking to ourselves. But that is not true. The American people are listening and they are watching. That is good. But this morning I have good news and I have some bad news. The good news is, Senate Republicans finally—finally, at long last—have put a detailed plan down on paper. The bad news is, it is not as we had hoped—a plan to make health insurance more affordable, it is not one that makes health insurance companies more accountable, and it is certainly not a plan to reverse rapidly rising health care costs and draw down our deficit, such as the plan that has been submitted to the Senate and is now before the Senate by the Democrats.

Again, the plan we had hoped to receive from the Republicans would be to

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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make insurance more affordable, it would be one to make health insurance companies more accountable, and it would be a plan to reverse the rapidly rising health care costs and draw down our deficit. But, no, the Republican plan we have waited weeks and months to see doesn't do any of those things. In fact, it is not even about health care at all, even though it is on the health care bill, this plan they have outlined. The first and only plan Senate Republicans bothered to draft is an instructional manual on how to bring the Senate to a screeching halt. We knew that was happening anyway, but they had the audacity to put it in writing.

Madam President, I ask unanimous consent to have printed in the RECORD the letter I will be referring to.

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

(See exhibit 1.)

Mr. REID. Madam President, here are some of the highlights of the Republican plan laid out in the letter I referred to:

Tips on how to force the full reading of all amendments—long amendments, short amendments.

I have no objection to transparency. That is important. Every Senator should know what he or she is voting on, but let's be truly transparent. We all know that those who would ask for such readings have no intention of sitting in this Chamber, listening to the Senate clerks. Any suggestion otherwise is simply disingenuous.

This document explains how to manipulate points of order. Yes, that is what I said, manipulate points of order—a complex but important part of the legislative process. Yet these Senators have no intention of examining the procedures of the Senate or any constitutional rules.

The document says it in plain language. The whole purpose of the document, dated the day before yesterday—December 1—a “Dear Republican colleague” letter, is to set forth how to slow things down, as if they needed more help to slow things down. Ninety-one times this year they have already done that. But on this bill—this bill that affects every person in America—to put in writing that they are going to do everything they can to stop this, to delay this, is beyond something that I think the American people can comprehend.

The document says in plain language that is their intention. It even condones using this tactic “without cause.” Do this without any reason. Just do it. The rules allow it, so go ahead and do it. It stalls things. This letter admits, in no uncertain terms, that the goal of this tactic is to delay. I didn't make up the word. It is in here. It is as clear as day.

But there is more in this plan. It also advises Senators on how to “extend consideration of a measure,” which motions “may be filibustered,” and when Senators might “offer an unlimited number of motions.”

Well, as we see in the press, today, anyway, this has caused outrage. It is a catalogue of obstructions—a catalogue of instructions to obstruct. But what disappoints me most about this is what isn't here. Nowhere in this Republican plan is a strategy to lower premiums; not a single word about how to make sure more of our citizens can afford to stay healthy; can't even find one idea for stopping insurance companies from denying health care to the sick. You see, my Republican friends have been so busy coming up with games and gambits, with ways to distort and delay, with scare tactics and stalling tactics, that they haven't left time to come up with solutions to one of the most profound crises in the history of our country. The Senate might be interested to learn that the architect behind this blueprint is none other than the former chair of the Budget Committee, the senior Senator from New Hampshire. It is worth noting that this Senator—who, more than any other, often speaks publicly about how to properly use citizens' tax dollars—has now signed his name to a plan with the explicit goal of wasting the taxpayers' time and money.

Less than 2 weeks ago, the author of this document, along with every single one of his fellow Republicans—every one—voted against even letting the Senate debate this bill. He didn't even want to give the American people the opportunity to watch this debate take place—to discuss and defend his position. Now he expects us to believe his only motive is making sure the minority party's voice can be heard.

No one believes that because it couldn't be any further from what the Founders had in mind. They didn't write this esteemed body's rules so we could stare at the hands of the clock—which are right up here—as they rotate around each other without end. So let's not pretend the Republican strategy is anything different than what it is. After all, Republicans certainly aren't trying to hide it.

When I see these kinds of political games, I think of many cases in Nevada and around the country, but, in particular, I think of a woman from Las Vegas named Alysia. She wrote me a letter when the health care debate was getting underway. She is in her early twenties. I don't know if she is a Democrat, an Independent, or a Republican. It doesn't matter. She was born with a kidney disease, a bad kidney disease. She has suffered with it every day of her life, and these days she desperately needs surgery. But she is not going to get surgery.

Similar to so many in Nevada and across the Nation, Alysia recently lost her job. With her job lost, she lost her insurance and her health care. So Alysia went out and tried to buy a new plan to help her afford her care. No one will give her insurance. She can't find a job to get group insurance.

What did the insurance companies tell her—plural? That her kidney dis-

order is a preexisting condition, and because of that policy of the insurance industry, which is reprehensible, they refuse to cover her. They refuse to cover this young woman at the exact moment she needs it the most. She then tried to go get some help from Medicaid. What did she hear in response? She doesn't qualify because she isn't pregnant, she doesn't have children, and they say she doesn't have a disability.

So how can you take a woman such as Alysia out of your mind? I think she is probably following this debate. It means a lot more to her, this debate, than a legislative exercise or a political objective. She will pick up the newspaper this morning, turn on the news, or go online to read about what is happening in the Senate. Why? Because it affects her health—her pain and suffering. She probably remembers her grade school textbook teaching her that this is the world's greatest deliberative body and she is eager to find out about how those deliberations are going. She is eager to learn what we are going to do with a system that makes it impossible for her to get health care.

Who knows, she might even be watching C-SPAN as we speak. Can you imagine being Alysia and going through all that she has gone through, counting on your leaders to right the wrongs that we know exist, and this is what she finds—a Senator writing a letter on how to guide avoiding the tough decisions that will affect her life and maybe even save her life.

It is not hard to imagine. We all know you don't have to have a bad health history, such as Alysia's, to tell a similar story of your own. You may have had an accident in your early days. You may have diabetes. It doesn't matter. You don't need kidney disease for insurance companies to take away your health insurance. As it stands now, they can deny you coverage because of high cholesterol, because you have allergies or maybe you have had minor surgery or maybe because you are a woman. Maybe your mom had breast cancer. These are all reasons they use to deny coverage.

We all know that, much like our Republican colleagues, insurance companies will use any excuse in the book to just say no.

For many good people in Nevada and throughout the Nation, it is a painful, terrible reality. That is one of the many problems our good bill fixes.

The American people see transparent tricks like this—it is a shameful scheme—for what they are. The American people could not be impressed. They are not impressed. I can't decide which should disappoint the American citizens more, that the Senate Republicans are happily wasting time or that they are so eager to admit it. But here is one thing I do know, this is no way to govern, no way to legislate, this is no way to lead, and especially no way to lead our country, our constituents,

back to health. The bill before the Senate saves lives, saves money, and saves Medicare.

## EXHIBIT 1

U.S. SENATE,

Washington, DC, December 1, 2009.

DEAR REPUBLICAN COLLEAGUE: As we embark on Senate debate of Majority Leader Reid's massive \$2.5 trillion health care reform legislation, it is critical that Republican senators have a solid understanding of the minority's rights in the Senate.

I think that we can all agree that the Democrats' bill is the wrong choice for our nation. It will impact one-sixth of our economy, vastly grow the government, and pile tremendous debt on future generations. We are at an important crossroads both for the economy and for the health care system. Therefore, it is imperative that our voices are heard during this debate.

We, the minority party, must use the tools we have under Senate rules to insist on a full, complete and fully informed debate on the health care legislation—as well as all legislation—coming before the Senate. As laid out in the attached document, we have certain rights before measures are considered on the floor as well as certain rights during the actual consideration of measures. Every Republican senator should be familiar with the scope of these rights, which serve to protect our ability to speak on behalf of the millions of Americans who depend on us to be their voice during this historic debate.

I hope you find the attached information helpful. If you have any questions, please contact my communications office.

Sincerely,

JUDD GREGG.

FOUNDATION FOR THE MINORITY PARTY'S  
RIGHTS IN THE SENATE (FALL 2009)

The Senate rules are designed to give a minority of Senators the right to insist on a full, complete, and fully informed debate on all measures and issues coming before the Senate. This cornerstone of protection can only be abrogated if 60 or more Senators vote to take these rights away from the minority.

**I. Rights Available to Minority Before Measures are Considered on Floor** (These rights are normally waived by Unanimous Consent (UC) when time is short, but any Senator can object to the waiver.)

**New Legislative Day**—An adjournment of the Senate, as opposed to a recess, is required to trigger a new legislative day. A new legislative day starts with the morning hour, a 2-hour period with a number of required procedures. During part of the "morning hour" any Senator may make non-debatable motions to proceed to items on the Senate calendar.

**One Day and Two Day Rules**—The 1-day rule requires that measures must lie over one "legislative day" before they can be considered. All bills have to lie over one day, whether they were introduced by an individual Senator (rule XIV) or reported by a committee (rule XVII). The 2-day rule requires that IF a committee chooses to file a written report, that committee report MUST contain a CBO cost estimate, a regulatory impact statement, and detail what changes the measure makes to current law (or provide a statement why any of these cannot be done), and that report must be available at least 2 calendar days before a bill can be considered on the Senate floor. Senators may block a measure's consideration by raising a point of order if it does not meet one of these requirements.

**"Hard" Quorum Calls**—Senate operates on a presumptive quorum of 51 senators and quorum calls are routinely dispensed with by

unanimous consent. If UC is not granted to dispose of a routine quorum call, then the roll must continue to be called. If a quorum is not present, the only motions the leadership may make are to adjourn, to recess under a previous order, or time-consuming motions to establish a quorum that include requesting, requiring, and then arresting Senators to compel their presence in the Senate chamber.

**II. Rights Available to Minority During Consideration of Measures in Senate** (Many of these rights are regularly waived by Unanimous Consent.)

**Motions to Proceed to Measures**—with the exception of Conference Reports and Budget Resolutions, most such motions are fully debatable and 60 votes for cloture is needed to cut off extended debate.

**Reading of Amendments and Conference Reports in Entirety**—In most circumstances, the reading of the full text of amendments may only be dispensed with by unanimous consent. Any Senator may object to dispensing with the reading. If, as is often the case when the Senate begins consideration of a House-passed vehicle, the Majority Leader offers a full-text substitute amendment, the reading of that full-text substitute amendment can only be waived by unanimous consent. A member may only request the reading of a conference report if it is not available in printed form (100 copies available in the Senate chamber).

**Senate Points of Order**—A Senator may make a point of order at any point he or she believes that a Senate procedure is being violated, with or without cause. After the presiding officer rules, any Senator who disagrees with such ruling may appeal the ruling of the chair—that appeal is fully debatable. Some points of order, such as those raised on Constitutional grounds, are not ruled on by the presiding officer and the question is put to the Senate, then the point of order itself is fully debatable. The Senate may dispose of a point of order or an appeal by tabling it; however, delay is created by the two roll call votes in connection with each tabling motion (motion to table and motion to reconsider that vote).

**Budget Points of Order**—Many legislative proposals (bills, amendments, and conference reports) are subject to a point of order under the Budget Act or budget resolution, most of which can only be waived by 60 votes. If budget points of order lie against a measure, any Senator may raise them, and a measure cannot be passed or disposed of unless the points of order that are raised are waived. (See <http://budget.senate.gov/republican/pressarchive/PointsofOrder.pdf>)

## AMENDMENT PROCESS

**Amendment Tree Process and/or Filibuster by Amendment**—until cloture is invoked, Senators may offer an unlimited number of amendments—germane or non-germane—on any subject. This is the fullest expression of a "full, complete, and informed" debate on a measure. It has been necessary under past Democrat majorities to use the rules governing the amendment process aggressively to ensure that minority Senators get votes on their amendment as originally written (unchanged by the Majority Democrats.)

**Substitute Amendments**—UC is routinely requested to treat substitute amendments as original text for purposes of further amendment, which makes it easier for the majority to offer 2nd degree amendments to gut 1st degree amendments by the minority. The minority could protect their amendments by objecting to such UC's.

**Divisible Amendments**—amendments are divisible upon demand by any Senator if they contain two or more parts that can stand independently of one another. This can

be used to fight efforts to block the minority from offering all of their amendments, because a single amendment could be drafted, offered at a point when such an amendment is in order, and then divided into multiple component parts for separate consideration and votes. Demanding division of amendments can also be used to extend consideration of a measure. Amendments to strike and insert text cannot be divided.

**Motions to Recommit Bills to Committee With or Without Instructions**—A Senator may make a motion to recommit a bill to the committee with or without instructions to the Committee to report it back to the Senate with certain changes or additions. Such instructions are amendable.

**AFTER PASSAGE GOING TO CONFERENCE, MOTIONS TO INSTRUCT CONFEREES, MATTERS OUT OF SCOPE OF CONFERENCE**

**Going to Conference**—The Senate must pass 3 separate motions to go to conference: (1) a motion to insist on its amendments or disagree with the House amendments; (2) a motion to request/agree to a conference; and (3) a motion to authorize the Chair to appoint conferees. The Senate routinely does this by UC, but if a Senator objects the Senate must debate each step and all 3 motions may be filibustered (requiring a cloture vote to end debate).

**Motion to Instruct Conferees**—Once the Senate adopts the first two motions, Senators may offer an unlimited number of motions to instruct the Senate's conferees. The motions to instruct are amendable—and divisible upon demand—by Senators if they contain more than one separate and distinct instruction.

**Conference Reports, Out of Scope Motions**—In addition to demanding a copy of the conference report to be on every Senator's desk and raising Budget points of order against it, Senators may also raise a point of order that it contains matter not related to the matters originally submitted to the conference by either chamber. If the Chair sustains the point or order, the provision(s) is stricken from the conference agreement, and the House would then have to approve the measure absent the stricken provision (even if the House had already acted on the conference report). The scope point of order can be waived by 60 Senators.

**Availability of Conference Report Language**. The conference report must be publicly available on a website 48 hours in advance prior to the vote on passage.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

## HEALTH CARE REFORM

Mr. McCONNELL. Madam President, this measure was in the majority leader's office for 6 weeks. It has only been on the floor of the Senate for 3 days. I think it is clearly not the case that the Republicans want to delay a process that we have only now gotten an opportunity to participate in, since this has been a strictly partisan venture from the beginning. But we will have an opportunity over a number of weeks to offer amendments. We will have four votes today and hopefully we can proceed at a more rapid pace than we got off to in the first couple of days. Of

course the reason we didn't have votes last night was because there were objections on that side of the aisle. But hopefully we are now into a process where we can go forward without the kind of delay that we had generated by both sides over the last couple of days.

Yesterday some of our friends on the other side were at great pains to explain one of the core pieces of their health care plan. I am referring of course to the massive cuts in Medicare they plan to make as a way of expanding government's reach even further into the lives and, more specifically, into the medical care of every American.

I have no doubt that our friends were reluctant to call for these cuts. But in the middle of a recession, and at a time when more than 1 in 10 working Americans is looking for work, it isn't easy to find \$1/2 a trillion lying around. They had to find the money somewhere. And so they set their sights on Medicare.

Republicans have been entirely consistent in this debate: Medicare is already in trouble. The program needs to be fixed, not raided to create another new government program. We have fought these senseless cuts from the outset. And we will continue to fight them.

Democrats, meanwhile, have taken a novel approach. They have apparently decided there is no way to defend these Medicare cuts, so they will just deny they are doing it. It hardly passes the smell test.

Here are the facts. According to this bill: Medicare Advantage is cut by \$120 billion; hospitals that treat Medicare patients are cut by \$135 billion; home health care is cut by more than \$42 billion; nursing homes are cut by nearly \$15 billion; hospice care is cut by \$7.6 billion.

These are the cuts that our friends on the other side claim not to be cuts. This is the plan that our friends on the other side have said will "save Medicare"—a talking point so plainly contradicted by the facts, it is almost impossible to repeat it with a straight face.

One Democrat took this strategy to a new level yesterday when he declared on the floor that it wasn't even accurate to describe cuts to Medicare Advantage as cuts because Medicare Advantage, he said, is not a Medicare Program.

Well, that is apparently news to the Department of Health and Human Services, which states on its Web site, in words as plain as the alphabet that "Medicare Advantage plans . . . are part of the Medicare program." And it is news to the millions of American seniors who depend on this popular program for their care.

At the moment, Medicare Advantage has nearly 11 million enrollees looking at it another way, or nearly one-fourth of all Medicare beneficiaries are on Medicare Advantage.

In recent years, this program has proven to be particularly popular with

seniors in rural areas who would otherwise have limited access to care. Seniors have shown they want this plan. And I daresay that if you had asked seniors earlier this year what they expected health care reform would look like, it wouldn't have involved massive cuts to a program that they have shown they like and want.

Medicare Advantage has also been proven to help in a particular way low-income and minority seniors. That is one of the reasons minorities are more likely to enroll in it. So this program has given a boost to historically disadvantaged populations and helped give them a greater measure of dignity toward the end of their lives.

These cuts are bad enough. But despite what our friends have said, the Democrat plan for Medicare Advantage doesn't stop here because their bill also gives the Medicare Commission explicit new authority to cut even more from this popular program in the years ahead.

The President has repeatedly said that people who like the plans they have will be able to keep them under his plan. He has said people currently signed up for Medicare Advantage will have the same level of benefits under his plan.

Well, common sense tells us that you can't cut \$120 billion from a benefits program without affecting benefits, and the independent Congressional Budget Office confirms what common sense tells us, and they actually quantify it.

CBO says the bill we are debating will cut extra benefits that seniors receive through Medicare Advantage by more than half. The fact is, cuts to Medicare Advantage are cuts to Medicare. And if it is true of Medicare Advantage, it is true of the other Medicare cuts in this bill. Democrats can deny these cuts all they want. Seniors aren't buying it.

Later this afternoon we are going to have a Bennet amendment, Bennet of Colorado, as a side-by-side to Senator McCain's motion, which would send back to committee the Medicare cuts in this bill and ask the committee to report it back without them. I want to comment briefly on the Bennet amendment and we are going to have more to say on that during the course of today's debate.

This amendment is a shell game, a shell game designed to hide the \$½ trillion in cuts I have been talking about. The Bennet of Colorado amendment is a shell game designed to hide the \$½ trillion in cuts I have described. If the Bennet amendment passes, the bill will still cut \$½ trillion from Medicare.

Let me say that again. If the Bennet of Colorado amendment passes, the bill will still cut \$½ trillion from Medicare. It does not protect Medicare. There is only one way to protect Medicare and that is to support the McCain motion.

I yield the floor.

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

Mr. McCONNELL. I will be happy to yield to the Senator from New Hampshire.

Mr. GREGG. The Senator is absolutely right to point out the Bennet amendment is a shell game, charade, and a farce; that there will still be \$½ trillion in the first 10 years but actually \$2.5 trillion over the period 2010 to 2029 to be cut out of Medicare.

Earlier the majority leader came to the floor and talked about a memo that I sent around, which is a fairly innocuous memo to our fellow Members, which outlined the rights to fellow Members relative to floor activity, and I sent in my position as Budget ranking member, because most of these issues are tied to the budget, and the covering letter said we as a minority must use the tools we have under the Senate rules to insist on a full, complete, and fully informed debate on health care legislation as well as all legislation that comes before the Senate.

I ask the Republican leader, is it not reasonable that we should have a full, complete, and fair debate on this health care bill?

Mr. McCONNELL. I say to my friend from New Hampshire, we know this bill was produced by Democrats in committee. Then it went to the majority leader's conference room and stayed there for 6 weeks. There were no Republicans in those meetings, not a one. So after being in the majority leader's conference room for 6 weeks, it has been on the floor of the Senate for 3 days. This will be the fourth day.

To suggest that Republicans don't want to offer many amendments to this massive 2,000-page bill that seeks to restructure one-sixth of our economy is nonsense. The American people will not stand for not having a free and open amendment process during the course of this debate. This is a debate, I say to my friend from New Hampshire, the American people deserve to have for a considerable period of time. For goodness' sake, we spent 4 weeks on a farm bill in the last Congress. F

Mr. GREGG. If the Republican leader will yield further, it is ironic, is it not, that the majority leader would come to the floor and complain about an innocuous statement that outlines the rules which Members of the Senate have, a statement which I suspect he actually would pass out to his members for information were they in the minority—maybe even in the majority, because they would like to know how the rules work in the Senate—after the majority leader had completely subverted the rules of the Senate by not taking this 2074-page bill through committee so it could be amended, in the open, so it could be amended but, rather, writing it in the back room, some closet around here, with three or four Members of the Senate present? Isn't there an ironic inconsistency to his outrage on the fact that we suggested people should know the rules here while he has basically tried to go around the rules?

Mr. McCONNELL. I say to my friend from New Hampshire, nobody is going to buy outrage over a mere 40 Members out of 100 Members of the Senate having an opportunity, for the first time, to offer amendments. The majority, by the way, has the right to do this, and I don't complain about it. They are going to offer an amendment for every amendment we offer, so not only did they have the bill in their conference room in secret for 6 weeks, out here on the floor they are going to get 50 percent of the amendments we vote on. I don't think they will be able, with a straight face, to convince the American people that somehow the 40 of us who are asking for an opportunity to amend a bill that all the surveys indicate the American people don't want us to pass is somehow unfair.

Mr. GREGG. I will ask one more question because I find the irony in the situation so unique. A memo which outlines what the rights are of all Members—but Members of the minority specifically because the rules are meant to protect the minority from the majority; that is the tradition of our Government, of course, which seems to be an affront to the majority at this point—that a memo of that nature, which essentially says the minority has certain rights in order for the institution to function correctly—I am wondering, why did we create these rules in the first place? Wasn't it so we could continue the thought of Adams, of Madison, who suggested that the Senate should be the place where, when legislation comes forward which has been rushed through the House, the Senate should be the place where that legislation receives a deliberative view, where it is explored as to its unintended consequences and as to its consequences generally, and where the body has the opportunity to amend it effectively so it can be improved? Isn't that the purpose of the Senate? And isn't that what the rules of the Senate are designed to do, to accomplish the goals of our Founding Fathers to have a Senate where the legislation is adequately aired and considered versus being rushed through in a precipitous way?

Mr. McCONNELL. It was George Washington who presided over the Constitutional Convention who was asked: General, what do you think the Senate is going to be like?

He said: I think it is going to be like the saucer under the tea cup and the tea is going to slosh out of the cup down into the saucer and cool off. That is precisely the point the Senator raises, which is the Senate is the place viewed to be a body that ought to and correctly takes its time. The House of Representatives passed this massive restructuring of one-sixth of our economy in 1 day with three amendments—1 day. That is not the way the Senate operates. I can remember when our friends on the other side were in the minority. Specifically, I can remember the now-assistant majority leader say-

ing the Senate is not the House—praised the procedures in the Senate. If ever there were a measure, if ever in the history of America there were a measure that the Americans expect us to take our time on and to get it right, it is this one, this massive 2,000-page effort to restructure one-sixth of our economy and have the government take over all of American health where we see, in all of the public opinion polls, people are saying please don't pass this—they want to try to rush it.

They want to try to rush it, try to get it through here in a heck of a hurry, back it up against Christmas. I have said to the majority leader, we are happy to be here. We are going to be here Saturday and Sunday. I did ask for an opportunity for Members to go to church Sunday morning, if they want to, and the majority leader indicated that would be permissible. But after that, we will be here and ready to vote.

Mr. GREGG. I thank the Republican leader for his response. I suspect, were the majority leader in the minority, he would be insisting on exactly what the Republican leader is insisting on—a fair and open debate which allows the minority to make its case as to the good points in this bill and as to the bad points. The way you make that case is by following the rules of the Senate; is that not correct?

Mr. McCONNELL. The American people expect and deserve no less than exactly what we have been discussing.

I yield the floor.

#### RESERVATION OF LEADER TIME

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

#### SERVICE MEMBERS HOME OWNERSHIP TAX ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3590, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 3590) to amend the Internal Revenue Code of 1986 to modify the first-time home buyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

Pending:

Reid amendment No. 2786, in the nature of a substitute.

Mikulski amendment No. 2791 (to amendment No. 2786), to clarify provisions relating to first-dollar coverage for preventive services for women.

McCain motion to commit the bill to the Committee on Finance, with instructions.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 10 minutes equally divided for the bill managers to speak.

The Senator from Montana.

Mr. BAUCUS. Madam President, I yield myself 2½ minutes from the time under the control of the managers.

For the benefit of all Senators I want to take a moment to lay out today's program.

The time between now and 11:45 is for debate on the amendment by the Senator from Maryland, Ms. MIKULSKI, the chairwoman of the Subcommittee on Retirement and Aging of the Health, Education, Labor and Pensions Committee.

And at the same time, we will debate the side-by-side amendment by the Senator from Alaska, Ms. MURKOWSKI.

At 11:45, the Senate will conduct two back-to-back rollcall votes on the two amendments, first on the amendment by the Senator from Maryland, and second on the amendment by the Senator from Alaska.

Thereafter, we will conduct approximately 2 hours of debate on the McCain motion to commit on Medicare and the side-by-side amendment by the Senator from Colorado, Mr. BENNET.

At 2:45, the Senate will conduct two back-to-back votes on the amendment by the Senator from Colorado, followed by a vote on the motion to commit by the Senator from Arizona.

Thereafter, we expect to turn to another Democratic first-degree amendment and another Republican first-degree amendment.

This is the fourth day on this bill, and we are only late this morning coming to our first vote. Even for the U.S. Senate, this is a slow pace.

I note that some have made plans for delaying this bill in even more extreme fashion. As the majority leader noted, on Tuesday, one Senator circulated a list of delaying tactics available under the Senate rules.

I presume all Senators know the Senate's rules already. So to send the letter leaves the impression that that Senator would like to urge Senators to use some of the delaying tactics stated in the memo.

But I urge a more cooperative course. Out of courtesy to other Senators who desire to offer amendments. I urge my colleagues to allow us to reach unanimous consent agreements to order the voting of future amendments in a more timely fashion. That is simply the only way that we can ensure that more colleagues will have the time and opportunity to offer and debate their amendments.

I thank all Senators.

The ACTING PRESIDENT pro tempore. The Senator has consumed his time.

Mr. BAUCUS. I ask unanimous consent that the order of December 2 be modified to delete all after the word "table."

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

Mr. BAUCUS. I ask unanimous consent that the debate time from 2 to 2:45 this afternoon be divided as follows in the order listed: the first 17½ minutes under the control of Senator MCCAIN or his designee; the next 17 minutes under the control of Senator BAUCUS or his designee; and the final 10 minutes, 5 minutes each for Senator MCCAIN and Senator BENNET of Colorado.



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

The Senator from Iowa.

Mr. HARKIN. Madam President, I heard the distinguished minority leader earlier in his comments say that one of the reasons they are slowing this bill down and having all this debate is it has been a strictly partisan venture thus far. I beg to differ with the minority leader.

I see our distinguished ranking member of the HELP Committee here on the floor. In the HELP Committee, for the enlightenment of Senators, we had 13 days of markup, 54 hours, 788 amendments were filed, 287 amendments were considered and debated and voted on or accepted, and 161 Republican amendments were adopted. No one was denied the opportunity to offer any amendment, to discuss them, debate them, and get a vote or have it accepted, whatever the case might be. To me, this is truly a bipartisan way of proceeding.

The minority leader's argument basically goes to the fact that the people of this country overwhelmingly elected Democrats to guide and make changes for the future. One of the biggest changes is in our health care system. One of the responsibilities of being a majority party is to propose. That is what we have done. We are proposing changes in the health care system. The function of the minority is to offer amendments, constructive amendments, offer different ideas, and if their ideas are better or if they receive majority approval, then the bill is thus changed. That happened in the HELP Committee. As I said, 161 Republican amendments were adopted. To me, that is bipartisan. That is what we have been doing. What is kind of not acceptable is this idea that things are just going to slow down for the purposes of delaying and eventually making sure we don't have a bill.

Let me say that after all that lengthy debate we had in the HELP Committee, we passed a bill. The same will happen here on the Senate floor. I don't care how many times the minority wants to drag it out and slow it down to try to kill this bill, this bill will pass the Senate, we will go to conference, and we will have it on the President's desk early next year.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. I appreciate the comments, some of which need correction, from yesterday and those that have just been made.

On a partisan bill, I sat through all of those days in the HELP Committee. That bill was rushed and put together. Senator Kennedy was not able to be involved in that part of it. His staff did it. They did it in a hurry. We turned in 159 amendments that were accepted. Most of those were for typos and minor corrections. There were a few that actually had some substance to them. That bill was passed on July 15 out of

committee without a single Republican vote. It wasn't published. We didn't see the final version until September 17. The ones that were really something that could have made a difference were taken out without the permission of any Republican Senator. That is not bipartisan.

We talked about how many hours we spent together. If you don't accept things from the minority party, it is not bipartisan. It is still partisan. Just spending hours doesn't make any difference.

To move on to a different topic, yesterday we were talking about costs. I hope the people take a look at a Wall Street Journal article from yesterday that says:

A bill that raises prices but lowers costs, and other miracles.

We heard all day yesterday that this bill is going to save people a lot of money. This article reads:

We have now reached the stage of the health-care debate when all that matters is getting a bill passed, so all news is good news, more subsidies mean lower deficits, and more expensive insurance is really cheaper insurance. The nonpolitical mind reels.

Consider how Washington received the Congressional Budget Office's study Monday of how Harry Reid's Senate bill will affect insurance costs, which by any rational measure ought to have been a disaster for the bill.

CBO found that premiums in the individual market will rise by 10% to 13% more than if Congress did nothing. Family policies under the status quo are projected to cost \$13,100 on average, but under ObamaCare will jump to \$15,200. Fabulous news! "No Big Cost Rise in U.S. Premiums Is Seen in Study," said the New York Times, while the Washington Post declared, "Senate Health Bill Gets a Boost." The White House crowed that the CBO report was "more good news about what reform will mean for families struggling to keep up with skyrocketing premiums under the broken status quo." Finance Chairman Max Baucus chimed in from the Senate floor that "Health-care reform is fundamentally about lower health-care costs. Lowering costs is what health-care reform is designed to do, lowering costs; and it will achieve this objective."

Except it won't. CBO says it expects employer-sponsored insurance costs to remain roughly in line with the status quo, yet even this is a failure by Mr. Baucus's and the White House's own standards.

Meanwhile, fixing the individual market—which is expensive and unstable largely because it does not enjoy the favorable tax treatment given to job-based coverage—was supposed to be the whole purpose of "reform." Instead, CBO is confirming that new coverage mandates will drive premiums higher. But Democrats are declaring victory, claiming that these higher insurance prices don't count because they will be offset by new government subsidies.

About 57% of the people who buy insurance through the bill's new "exchanges" that will supplant today's individual market will qualify for subsidies that cover about two-thirds of the total premium. So the bill will increase costs but it will then disguise those costs by transferring them to taxpayers from individuals. Higher costs can be conjured away because they're suddenly on the government balance sheet. The Reid bill's \$371.9 billion in new health taxes are also apparently not a new cost because they can be

passed along to consumers, or perhaps will be hidden in lost wages. This is the paleoliberal school of brute-force wealth redistribution, and a very long way from the repeated White House claims that reform is all about "bending the cost curve." The only thing being bent here is the budget truth.

Moreover, CBO is almost certainly underestimating the cost increases. Based on its county-by-county actuarial data, the insurer WellPoint has calculated that Mr. Baucus's bill would cause some premiums to triple in the individual market. The Blue Cross Blue Shield Association came to similar conclusions. One reason is community rating, which forces insurers to charge nearly uniform rates regardless of customer health status or habits. CBO doesn't think this will have much of an effect, but costs inevitably rise when insurers aren't allowed to price based on risk. This is why today some 35 states impose no limits on premium variation and six allow wide differences among consumers.

The White House decided to shoot messengers like WellPoint to avoid rebutting their message. But Amanda Kowalski of MIT, William Congdon of the Brookings Institution and Mark Showalter of Brigham Young have found similar results. In a 2008 paper in the peer-reviewed Forum for Health Economics and Policy, these economists found that state community rating laws raise premiums in the individual market by 20.9% to 33.1% for families and 10.2% to 17.1% for singles. In New Jersey, which also requires insurers to accept all comers (so-called guaranteed issue), premiums increased by as much as 227%.

The political tragedy is that there are plenty of reform alternatives that really would reduce the cost of insurance. According to CBO, the relatively modest House GOP bill would actually reduce premiums by 5% to 8% in the individual market in 2016, and by 7% to 10% for small businesses. The GOP reforms would also do so without imposing huge new taxes. But Democrats don't care because their bill isn't really about "lowering costs." It's about putting Washington in charge of health insurance, at any cost.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Under the previous order, the time until 11:45 a.m. shall be equally divided between the Senator from Maryland, Ms. MIKULSKI, and the Republican leader or his designee.

Mr. HARKIN. Madam President, parliamentary inquiry: There is time between now and the hour of 11:45 a.m. equally divided between the Republican side and the Democratic side; is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. HARKIN. Madam President, I assume, then, the normal thing will be to go back and forth from one side to the other, the Republican side and the Democratic side?

The ACTING PRESIDENT pro tempore. That will not be an order unless it is propounded.

Mr. BAUCUS. Madam President, I think it is perfectly understood.

Mr. ENZI. That is our understanding as well.

Mr. HARKIN. Madam President, I ask unanimous consent to be recognized for 7 minutes.

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

Mr. BAUCUS. Madam President, will the Senator yield for a quick inquiry to my friend from Wyoming?

Mr. HARKIN. Yes.

Mr. BAUCUS. Madam President, I might inquire of my colleague from Wyoming if that item the Senator was quoting from about costs in the Wall Street Journal was a news article or an editorial.

Mr. ENZI. That was an editorial by the Wall Street Journal, the staff of the Wall Street Journal, confirmed by MIT, Brigham Young, and others.

Mr. HARKIN. Madam President, I ask if the Chair will remind me when the 7 minutes is up.

The ACTING PRESIDENT pro tempore. The Chair will do so.

Mr. HARKIN. Madam President, I have to respond to my friend from Wyoming about doing this in a hurry. He mentioned that we did the bill in a hurry in our committee. Actually, it was last November, shortly after the election, when I received a call from Senator Kennedy talking about doing a health reform bill, asking if I would take charge of a section dealing with public health and prevention and wellness. I think then he asked Senator MURRAY to take over workforce development, Senator BINGAMAN did coverage, and Senator MIKULSKI did quality improvements. So that was in November.

I cannot speak for the others who did the other sections. All I can say is, on our side, in what I did, we had five hearings. We had five hearings on public health and prevention and wellness and what ought to go into a bill. I think those hearings commenced in December and went through about February. Then we worked until June, and we did not start our markup until June. So we had almost 6 months of hearings and putting things together in the bill before we started a markup. I rather doubt that can be said to be rushing anything.

But I just want to focus on the vote that is coming up on the amendment offered by the Senator from Maryland, Ms. MIKULSKI, which will strengthen provisions in the bill concerning preventive health benefits for women.

As an initial matter, I am proud of the significant investments the bill makes overall in wellness and prevention. It has not been talked about very much. If you read the public press out there, the popular press, and watch TV, about the only thing you think is in the bill is a public option and abortion and that is what this bill is about. Well, those may be the hot points and the flashpoints—it makes for good press—but I submit that one of the most important parts, if not the most important part, of this bill is what it does for prevention and wellness, trying to move our costs upstream, keeping people healthy in the first place.

I have said many times, what good does it do us if we are just going to

pour more money into paying bills for a broken, dysfunctional, sick care system—not a health care system, a sick care system? That is what we have in America today. This bill begins the transformation of moving us from a sick care system to a true health care system.

The Senator from Maryland has a very important amendment to make clear—to make clear—that what is included in the bill is to strengthen the preventive services that basically inure to the women of this country. The Mikulski amendment reiterates the recommendations of our bill, and it also points out that the recommendations of the U.S. Preventive Services Task Force is a floor, not a ceiling—it is a minimum. In other words, health plans are required at a minimum to provide first-dollar coverage for preventive services recommended by the Preventive Services Task Force, but that is just the minimum. The Secretary of Health and Human Services has full discretion to identify additional preventive services that will be part of the essential package offered by health insurance on the exchange.

Again, there has been some talk here about this task force, the Preventive Services Task Force, that somehow this is a bunch of bureaucrats, it is a government-run task force, it has a political agenda. I have heard all these things said on the floor in the last day or so. Well, in fact, the Preventive Services Task Force is an independent body that evaluates the benefits of clinical preventive services. It makes recommendations—again, no decisions, merely recommendations—about which services are most effective.

Who is on this task force? Experts and leaders in primary care who are renowned internists, pediatricians, family physicians, gynecologists, and obstetricians. And these professionals are not located in Washington, DC; they are based all over the country. Some may be in one State or another State. They are all over the country, and they are experts in these different areas, recognized by their peers. They do not sit in an office at Health and Human Services. They bring years of medical training and experience to the jobs they do.

Does that mean they never make a mistake? No. No one is perfect. No Senator is perfect. Neither is every doctor perfect. And neither is any task force always going to make what we might consider to be the perfect answer. But our bill does not grant them the authority to tell insurance companies what not to cover. That is clear. But to hear the debate on the floor, you would think it is just the opposite, that the Preventive Services Task Force can tell insurance companies what they cannot cover. That is not true. Our bill says that those recommendations that are A and B—categorized by the Preventive Services Task Force, by these expert doctors around the country—these are the ones they say really are

key preventive services, have the most benefit. We say in our bill that those services must be covered without copays, without deductibles. That means that is the floor. That is the floor.

Again, I might also add that preventive services that are rated by the Advisory Committee on Immunization Practices and comprehensive guidelines supported by the Health Resources and Services Administration are also part of the recommendations to establish that floor.

So, again, I would say it is a pretty big floor when you put all those together. Again, it does not establish a ceiling and it does not say what cannot be done. It just says you have to do these basics. That is the floor.

I do understand the concerns of some that the task force has not spent enough time studying preventative services that are unique to women. Senator MIKULSKI goes back a long way on this issue. I can remember some years ago Senator MIKULSKI pointing out to me, in my capacity as the then-chairman of the Appropriations subcommittee that funds NIH—

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. HARKIN. Madam President, I ask unanimous consent for 3 more minutes.

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

Mr. HARKIN. Senator MIKULSKI said: If you look at the research being done at NIH, it is almost all done on men and not on women. I remember that some years ago, and all of a sudden a lightbulb went off in my head. I said: You are right. So we had to start changing the focus of a lot of the research done to focus on the unique situations faced by women.

Well, this was also a concern that was raised in our HELP Committee by Senator MIKULSKI, and we included language to require all health plans to cover comprehensive women's preventive care and screenings based on guidelines promulgated by the Health Resources and Services Administration—again, without any copays or deductibles. That was in our health bill but unfortunately was not included in the merged bill. But Senator MIKULSKI's amendment, which we are about to vote on, brings us back to the position we had in the HELP Committee bill. I think that was largely supported, if I am not mistaken, on both sides, at least in our HELP Committee. At least no one offered any amendment to strike it when we were debating it in committee. So I assume it was supported generally by both Republicans and Democrats.

By voting for the Mikulski amendment, we can make doubly sure that the floor we are establishing in the bill for preventive services that are unique to women also has no copays and no deductibles. Again, that is why this amendment is so important.

I know our friend Senator MURKOWSKI has a different way of approach. I commend her for her involvement and her interest in this issue. She has been a great member of our committee, and I have done a lot of great work with Senator MURKOWSKI. But I think her amendment misses the mark in this way: It asks insurers to use guidelines from provider groups when making coverage decisions. Well, that does not guarantee women will get any of the preventive services they need.

Here is a statement from the American Heart Association and the American Stroke Association. It says:

... we are concerned that Senator Murkowski's preventive health services amendment would take a step backwards by substituting the judgment of the independent U.S. Preventive Services Task Force with the judgment of private health insurance companies.

Madam President, I ask unanimous consent that this letter from the American Heart Association and the American Stroke Association be printed in the RECORD.

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

STATEMENT BY AMERICAN HEART ASSOCIATION  
CEO NANCY BROWN ON MURKOWSKI AMENDMENT ON PREVENTIVE HEALTH SERVICES  
(Dec. 2, 2009)

The American Heart Association strongly supports requiring health plans and Medicare to provide first-dollar coverage for clinical preventive services that are evidence-based and necessary for the prevention or early detection of an illness or disability. We appreciate that Senator Murkowski's amendment recognizes the value of the guidelines and recommendations made by professional medical organizations (as well as by voluntary health organizations like the American Heart Association). But even these guidelines must be held to the standard of being evidenced based. In addition, we are concerned that Senator Murkowski's preventive health services amendment would take a step backwards by substituting the judgment of the independent U.S. Preventive Services Task Force with the judgment of private health insurance companies. Although we have previously recommended to Congress that the USPSTF membership be expanded to include specialists to broaden the expertise of the Task Force, we believe an expanded USPSTF would be the best entity to objectively and rigorously make recommendations for covering clinical preventive services and do not support eliminating it from this role.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. HARKIN. Madam President, I will have more to say about the Murkowski amendment later. But, again, the point is, the Mikulski amendment is right on point. It should be adopted.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ENZI. Madam President, I yield 10 minutes to the Senator from Florida.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. LEMIEUX. Madam President, I come to the floor today to draw back the curtain a little, I hope, and to widen the lens to talk about the issue

of the bill before us, not just on this particular amendment but on what it is going to mean for my constituents in Florida and for the people of this country.

I had the opportunity last week to be back home in Florida, in south Florida, in Palm Beach County and Broward County and Miami-Dade County, where I talked to doctors, hospital administrators, folks who run Medicare Advantage plans, as well as everyday Floridians, specifically senior citizens. The responses I heard were nearly unanimous, and that was grave concern about the bill that is being debated on this floor and a general confusion as to why the Congress is pursuing the path that it is. The people of Florida do not understand why we are going to cut Medicare to create a new program. The people of Florida do not understand why we are going to raise taxes to create a new program. The people whom I have spoken to in Florida do not understand why we would undertake a new \$2.5 trillion health care proposal if it was not going to reduce the cost of health insurance for the 170 million to 180 million Americans who have health insurance today.

Why are we embarking upon this measure if it is not going to affect most everyday Floridians and everyday Americans who are struggling under the high cost of health insurance? Health insurance premiums have increased 130 percent in the past 10 years.

When the President put this proposal forward and when he campaigned on it, he said his major goal was to reduce the cost of health insurance. When he addressed the Nation in a joint session of Congress on September 9, he said his plan would reduce the cost of health insurance. But we find out that for at least 32 million Americans, it will raise the cost of health insurance 10 to 13 percent. So at least half of the goal, if not most of the goal, of his plan for most Americans in this country will not be accomplished. Yet we are going to cut nearly  $\frac{1}{2}$  trillion out of Medicare, we are going to raise taxes by  $\frac{1}{2}$  trillion, and we are going to spend  $\frac{1}{2}$  trillion on this program, which was admitted to by Senator BAUCUS yesterday on the floor, which cannot be, under my understanding, in any way budget neutral.

But I want to speak specifically about the cuts to Medicare. It cuts \$192 billion, according to the Congressional Budget Office, "to Medicare's payment rates for most services." I think we have to be clear here that if you cut providers, you are going to cut services. The very reason we talked about increasing doctor payments in that  $\frac{3}{4}$  trillion program was so that patients would not receive fewer services, so there would be ample doctors providing services for Medicare. It is beyond logic to argue that cutting providers will not cut services. What will happen when we cut providers, doctors, nursing homes, home health agencies, hospitals? Fewer and fewer of them will

provide benefits, and fewer and fewer of them will take Medicare.

The Chief Actuary of CMS believes the cuts in the bill we have before us could cause providers to end their participation in Medicare:

... providers for whom Medicare constitutes a substantive portion of their business could find it difficult to remain profitable and might end their participation in the program.

Every American understands this. If we pay less money to health care providers, they are going to offer less benefits or more and more they are not going to participate in Medicare.

The Medicare Payment Advisory Commission found in June of last year that 29 percent of Medicare beneficiaries who were looking for a primary care doctor had a problem finding one to treat them. This is of grave concern to the 3 million Floridians who are on Medicare. If a doctor will not see them, what kind of health care plan is this? These seniors, our "greatest generation," have paid into this program their whole life. It is illusory if they can't find a doctor who will treat them.

One of my constituents, Earl Bean, from Sanford, FL, recently told CNN that he called about 15 doctors when he was trying to find health care, and he was told they were not taking new Medicare patients. So when we cut  $\frac{1}{2}$  trillion out of Medicare, is that going to improve health care for seniors or is it going to continue to decline health care for seniors? You can't get blood from a stone. It is going to make the situation worse. For anyone to come to this floor and say that it would not be incredible.

We have in Florida the second highest Medicare population. When we cut \$135 billion from hospitals and \$21 billion from the disproportionate share fund, which is basically money that goes to these hospitals to provide health care for seniors and the indigent, how are they going to be able to provide that health care? I spoke to the administrator of the North Broward Hospital District and told him about this cut to the DSH funds, and he told me it would be devastating to their provision of health care.

Then we are going to take a very popular program called Medicare Advantage—more than 900,000 Floridians in my State—and we are going to cut it as well. I recently visited the Leon Medical Center and their new facility in Miami Dade County where they provide state-of-the-art, first-class health care for seniors; not only normal health care but eyeglasses, hearing aids, dental care, and the constituents who go there love it. They are getting the kind of health care that you would hope your senior citizens in your family would get.

The principal of the company, Ben Leon, told me they have saved \$70 billion in the way they have run their system. He told me if we continue on this path with these cuts to Medicare Advantage, he will not be able to provide

these good services going forward. There are some fixes to grandfather folks in, but all in all people will be cut, and all in all the program will not be as good, and it will decline the health care of seniors in Florida and across this country.

We will cut \$15 billion from nursing home care and \$40 billion from home health agencies. I spoke to a provider of a home health agency practice in Florida. He said these cuts will put half of the home health care agency folks out of business. At a time when we have 11.2 percent unemployment in Florida, this health care bill is going to cost people their jobs, and it is going to decline the quality of health care.

I am also concerned about this Medicare advisory board. This independent board of nonelected folks is going to have the power to cut Medicare by \$23 billion over the next 10 years, and it will be up to this body to reinstate those cuts. These people are not elected, my constituents in Florida don't know who they are, but they are going to be responsible for the decline of their Medicare and their health care.

The "greatest generation," who fought to protect this country, is looking at this health care bill and wondering why. Folks with health insurance in this country—more than 170 million who are not going to see their health care costs go down but up—are wondering why. Americans who are seeing higher taxes and penalties for not buying these health insurance programs under this bill are wondering why.

If we are here to reform health care—and we should be—if we are here to try to make sure the 45 million people in this country and the nearly 4 million Floridians get health insurance—and we should be—then why don't we take a step-by-step approach?

I am new to this body. My first day here was September 10, so I have not even been here 3 months. But I can tell my colleagues, the American people, if they knew what I know now and could see what I see, would be baffled by this process. There is not a give-and-take on this issue. We didn't all sit down together in a conference room and work this out to have a bipartisan bill. The Democratic leader worked on it with his colleagues but not with us.

So now we have a program that cuts Medicare, that raises taxes, that doesn't decrease the cost of health care for the majority of Americans and will cost us \$2.5 trillion and can't be budget-neutral, at a time when we have a \$12 trillion debt, a debt that requires each of us—each family—to put \$100,000 on our shoulders to be responsible for that debt, a debt where the third largest payment in our budget is for interest payments, and over the next 10 years those interest payments will go up by \$500 billion, enough to pay for many of the budgets of the Federal Government—

The ACTING PRESIDENT pro tempore. The Senator has used his 10 minutes.

Mr. LEMIEUX. Including the wars in Afghanistan and Iraq.

I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland is recognized.

Mr. HARKIN. How much time would the Senator like to consume?

The ACTING PRESIDENT pro tempore. The Senator from Maryland controls the time, and the Senator from Maryland has 33 minutes.

Ms. MIKULSKI. Madam President, I yield myself a firm 10 minutes.

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

Ms. MIKULSKI. Madam President, health care is a woman's issue. Health care reform is a must-do woman's issue, and health insurance reform is a must-change issue.

So many of the women and men of the Senate are here today to fight for change and to make sure we have universal access to health care. When we have universal access, it makes a difference in our lives, which means we have to have universal access to preventive and screening services.

My amendment—and, by the way, it is a bipartisan amendment—makes universal access to preventive and screening services for women available.

There is much discussion about whether women should get a particular service at a particular age. We don't mandate that women get a service; we leave that up to a decision made with the woman and her doctor. But, first of all, they need to be able to have a doctor. So we are for universal access, and this is why the underlying bill is so important.

Then, when you have that, there should also be universal access to preventive and screening services, particularly to the top killers of women, those things that are unique to women. We think about cancer: breast cancer, ovarian cancer, and cervical cancer. Also, women are dying at an increased rate of lung cancer. Then there are these other silent killers that have had a lethal effect on women, and that is cardio and vascular disease. So we want to guarantee universal access to medically appropriate or medically necessary screening and preventive services.

Many women don't get these services because, first of all, they don't have health insurance; and, No. 2, when they do have it, it means these services are either not available unless they are mandated by States or the copayments are so high that they avoid getting them in the first place.

The second important point about my amendment is it eliminates deductibles and copayments. So we eliminate two big hurdles: having insurance in the first place, which is the underlying bill, as well as copayments and deductibles. I know of no one in this room who would not want to be on our side on this issue.

I wish to acknowledge the role the Senator from Alaska has played, Ms. MURKOWSKI, as well as Senator KAY BAILEY HUTCHISON, Senator SNOWE, and Senator COLLINS. We, the women of the Senate, have worked on a bipartisan basis for years making sure we were included in the protocols at NIH, increasing funding for important research areas to find that cure, to race for that cure and, at the same time, to be able to have mammogram standards. What the Murkowski amendment—and by the way, she is MURKOWSKI, I am MIKULSKI. We sound alike, and the amendments might sound alike, but, boy, are they different.

The Murkowski amendment offers information. I think that is important. That is a threshold matter. You have to have information to make an informed decision. But it does not guarantee universal access to these services, and, of course, it does not eliminate the high payments and deductibles. So her amendment is flawed. My amendment is terrific. My amendment offers key preventive services, including an annual women's health screening that would go to a comprehensive assessment of the dangers to women, including heart disease and diabetes.

We hope when the Senate makes its decision today, it deals with the fact that for we women, the insurance companies take simply being a woman as a preexisting condition. We face so many issues and hurdles. We can't get health care. We can't get health insurance because of preexisting conditions called a C-section.

I am going to be meeting with an insurance company executive later where his company denied health insurance to a woman who had a medically mandated C-section, and a letter from this insurance company said: We are not going to give you insurance unless you have a sterilization—a coerced sterilization in the United States of America. That is going to be an amendment for another day. But I just wish to give the flavor and the power of what women face when we have to cope with the insurance companies or where there are barriers to our getting these health care screening services.

So we want to be able to save lives, and we want to be able to save money. We believe in universal access, and if you utilize the service it is because you have had the consultation with your doctor. We do know early screening and detection does save lives, and, at the same time, it saves money.

I will conclude with this: When we look at heart disease and diabetes, not only cancer but early detection of diabetes means, in a well-managed program, under appropriate medical supervision you very likely will not lose that eye, you will not lose that kidney, you will not lose that leg and, most of all, you will not lose your life.

So let's not lose the Mikulski amendment. Let's go with Mikulski and thank MURKOWSKI for her information, but hers is too tepid and too limited.

Madam President, I ask my colleague, one of the great guys who supports us, Senator CARDIN, how much time he needs.

I yield 5 minutes to Senator CARDIN.

Mr. CARDIN. First, let me thank my colleague, Senator MIKULSKI, for her leadership on this issue. I strongly support her amendment for the reasons she said. This is a very important point about providing preventive health services to the women of America, a critically important part of our strategy not only to bring down costs in health care, but to have a health care system that is fair in America.

I have been listening to my colleagues on the other side of the aisle talk about the underlying bill. They talk about it as if this is a static situation. Many of the criticisms I hear about the underlying bill are criticisms about our current health care system. I can tell my colleagues the people in Maryland, many of whom are finding it difficult to find affordable coverage today, are outraged with what is happening with private insurance companies and the attitudes they are taking.

As Senator MIKULSKI pointed out, they are denying coverage for pre-existing conditions or imposing arbitrary caps. As has been indicated, if we are unable to get this bill passed, what is going to happen in the future? We know costs are going to become even greater, more people are going to lose their coverage, insurance companies are going to continue their arbitrary practices, and the health care of Americans is in jeopardy.

We are already spending so much of our economy on health care, and if we don't take action, it will be a greater part of our economy.

But we have some good news. The underlying bill has now been analyzed by the CBO; that is the independent scorekeeper. What they tell us is, if we pass the underlying bill, for the overwhelming majority of Americans, they are going to find that their health insurance premiums will either stay the same or go down. For the overwhelming majority of Americans, they will have a better insurance product that will cover the types of preventive services Senator MIKULSKI is talking about, which are in her amendment.

We are not only going to bring down the cost for the overwhelming majority of Americans as to what will happen if we don't pass a bill, we are going to provide better coverage for them. The underlying bill will also reduce dramatically the number of people who don't have health insurance in America by 31 million. That will make our system much more effective.

I have heard my colleagues talk about what is going to happen with Medicare. If we pass the underlying bill, we are going to strengthen Medicare. We already have a provision that there cannot be reductions in the guaranteed benefits. We pointed out that AARP endorses the bill. They understand there will be additional preven-

tive health care for our seniors, and we will help fill the doughnut hole in prescription drugs.

When you reduce the number of uninsured, the amount of cost Medicare has to pay for health care in our hospitals is reduced. That is why we can reduce our payments to hospitals in America, because the amount of uncompensated care they currently have will be dramatically reduced. I have heard colleagues on the other side of the aisle talk about Medicare Advantage. I remember when we used to pay the private insurance companies in Medicare a little less than people in traditional Medicare. Then we paid them the same. Now we are paying them more. That is corporate welfare. Medicare Part B premiums are higher than they should be. Taxpayer support is higher than it used to be. We know these benefits that are being paid could be gone tomorrow. We saw the private insurance companies leave the Maryland market and so many other markets. These are reforms that save the taxpayers money and strengthen Medicare for the future.

Bottom line: The bill is good for middle-income families. It will provide the insurance reform so they have an insurance product that can cover their needs, including wellness and prevention programs. It is good for small business because it offers more choice. I can tell you chapter and verse of small companies in Maryland that, today, cannot get an affordable product and are seeing 20, 30 percent increases in their premiums. They need this bill in order to be able to preserve health care for their employees.

This bill, with the Mikulski amendment, will provide the preventive health care for all Americans that is so desperately needed, which will reduce costs, improve quality, and make our health care system more efficient and effective in the future, bringing down costs by investing in wellness and prevention.

I urge my colleagues to support the Mikulski amendment and to support the underlying bill.

I yield the floor.

Mr. ENZI. Madam President, I yield 10 minutes to the Senator from South Dakota.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. THUNE. Madam President, I appreciate the opportunity to speak on this important piece of legislation.

Again, I point out to my colleagues, and to anybody else who may be observing, the volume of this bill. This is 2,100 pages and 21 pounds, which means it is about a pound per 100 pages. It is \$1.2 billion dollars per page, \$6.8 million per word, and it creates 70 new government programs. It gives the Secretary of Health and Human Services—in 1,600 or 1,700 instances in this bill—the opportunity to create, define, and determine things in the bill.

This is a big government bill, a massive expansion of the Federal Govern-

ment—\$2.5 trillion, when it is fully implemented. Of course, the paid-fors in the bill—all the things in this bill, not only those intended things but also the unintended consequences of the bill—you have some revenue to pay for these things. Where do we get the revenue?

In the Reid bill, they decided they are going to raise taxes on small businesses, individuals and families and they are going to cut Medicare by about \$½ trillion.

What is ironic about that is, a few years ago, the Republicans, back when we were in the leadership in the Senate, tried to do a budget bill that actually achieved some savings in Medicare and Medicaid, to the tune of \$27 billion combined. But the Medicare savings in that bill was \$10 billion. That was over a 5-year period, at \$2 billion per year. I wish to remind some of my colleagues on the other side about some of the comments they made about that.

Senator REID, at the time—bear in mind this was to reduce Medicare by \$2 billion per year, \$10 billion over 5 years. The now-majority leader said:

Unfortunately, the Republican budget is an immoral document.

The Senator from West Virginia said this:

This proposed budget would be a moral disaster of monumental proportions.

A couple other colleagues in the Senate commented. The Senator from Michigan said:

People who rely on Medicare and Medicaid are going to be hurt by this bill.

The Senator from Wisconsin said:

I urge my colleagues to reject this bill, and the irresponsible and cruel budget of which it is part.

The former Senator from New York, Mrs. Clinton, said this:

This bill slashes \$6.4 billion from Medicare over the next 5 years.

It was actually \$10 billion. My point is simply this: It was \$10 billion over 5 years, \$2 billion per year. Those were the statements—overstatements—about the impact that a \$2 billion reduction per year in Medicare was going to have on people in this country. Now we are talking about \$½ trillion in Medicare cuts.

Where do their cuts come from? They will come from \$118 billion from Medicare Advantage, which now we have about 11 million Americans impacted by Medicare Advantage. Every State has seniors who have subscribed to that program whose benefits will be cut if this bill is enacted. You get it out of hospitals because there are \$135 billion in reductions and reimbursements to hospitals; \$15 billion in reductions to nursing homes and reimbursements; \$40 billion in reductions to home health agencies; and \$8 billion in reductions to hospices.

Those are all the ways this \$2.5 trillion expansion of the Federal Government is to be paid for. I didn't even get into the tax cuts, which will be a debate for another day.

The Medicare cuts in this bill are unlike anything we have seen in the past.

Clearly, when you compare it to 3, 4 years ago, when we were trying to achieve \$10 billion in savings over 5 years, you thought the sky was falling. Now here they are trying to pay for a \$2.5 trillion expansion of the Federal Government by cutting \$500 billion out of Medicare.

The point I also wish to make, because it has been made by the other side—by the most recent speaker—is that somehow this recent CBO analysis should be hailed as good news. The corks are popping in the celebration, and people are crowing about the new CBO report because it has such good news for this bill and the impact it will have on people who buy health insurance in this country.

What is it they are celebrating? CBO, in its report, essentially said this: 90 percent of Americans are going to see their premiums increase or see virtually the same increases as they do today year after year.

That is preserving the status quo, not decreasing costs, as promised. President Obama, when he was running for office in 2007, said when he got a chance to do health care reform, he was going to reduce costs by \$2,500 for every family in this country and cover everybody.

This bill, after spending \$2.5 trillion and creating 70 new government programs, doesn't cover everybody. There are still 24 million Americans who don't get covered under this bill, according to the CBO. Furthermore, nobody—I shouldn't say nobody—90 percent of Americans, those who don't get subsidies, don't come out any better. They will still see the year-over-year increases in premiums they have been seeing for the past several years, and the cost of health care is growing at twice the rate of inflation. If you assume a year-over-year increase similar to the past several years, in the small group market, you are looking at annual increases of over 6 percent for the cost of health care—to the point where a family that, today, is paying \$13,000 a year for health insurance, in 2016, will pay over \$20,000 a year for health insurance. So nobody gets any better out of this, except a handful of people who will get subsidies. If you are in the individual marketplace, your premiums go up. According to the CBO, there will be a 10- to 13-percent increase in premiums in the individual market. If you are in the large group market, you will see an almost 6-percent increase a year. If you are in the small group market, premiums will go up over 6 percent a year.

We are talking about spending \$2.5 trillion, cutting reimbursements to nursing homes, to hospitals, to home health agencies and hospices, and raising taxes on health care providers, medical device manufacturers, prescription drugs, raising the Medicare payroll tax which, incidentally, doesn't go to preserve or extend the lifespan of Medicare or put it on a path toward sustainability but creates a whole new government entitlement.

We are going to do all that for what? At best, to keep the status quo for people today; at worst, to increase their premiums by 10 to 13 percent. That is the bottom line. That is what this says. That is the new CBO report. That is the CBO report about which the other side is saying this is great news. They are celebrating. It is great news that premiums are going to continue to go up at twice the rate of inflation, just like in the past, protecting and preserving the status quo as we know it in America today.

This bill does nothing about the fundamental issue of cost. It doesn't matter what market you are in—small group market, large group market—it stays the same, at best, and in the individual marketplace, your premiums will go up 10 to 13 percent. That is the news being hailed by the other side as validating the argument for why we need to pass a 2,100-page, \$2.5 trillion monstrosity of a bill with 70 new government programs in it.

We will vote on the Medicare amendment later. Senator MCCAIN has a motion to commit the bill to essentially take the Medicare cuts out of it. I hope my colleagues vote for it. They are arguing it doesn't cut Medicare. How can you say that with a straight face? How can you say you are going to find \$500 billion to pay for this bill out of Medicare and then say it doesn't cut Medicare? Of course it cuts Medicare. Of course it raises taxes. You can't finance \$2.5 trillion of new spending unless you find a way to finance it.

The way they have chosen to finance this is to hit seniors squarely between the eyes and cut reimbursements to the providers all across this country that are dealing with the serious health needs our senior citizens are experiencing. In South Dakota, we have a lot of people who are employed in the health care industry. I think that is true of every State. Even in small towns in South Dakota, in nursing home employment you are talking about almost 6,000 employees. You are going to take \$15 billion out of nursing homes, \$40 billion out of home health agencies, \$135 billion out of hospitals, and what we are talking about are huge reductions in Medicare, unlike anything we have seen.

As I said, to put it into perspective, a few short years ago, when we were in the majority, in a budget trying to reduce Medicare by \$10 billion over a 5-year period, it was referred to as "immoral," as a "monumental disaster," as "cruel"—\$10 billion over 5 years. This has \$½ trillion in Medicare cuts—cuts to Medicare Advantage and providers.

I hope my colleagues will support the McCain motion.

I yield the floor.

Ms. MIKULSKI. Madam President, I yield 3½ minutes to the junior Senator from Minnesota, Mr. FRANKEN.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

Mr. FRANKEN. Madam President, I rise to express my support for Senator MIKULSKI's amendment for women's health.

This amendment is crucial because it is about prevention. Prevention is one of the key ways this bill will transform our system of sick care into true health care. It is common sense. You get the right screenings at the right time so you find diseases earlier. It saves lives and it saves money.

The Senate bill already has several provisions for preventive care, which I strongly support. For example, colonoscopies and screening for heart disease will be covered at no cost. It is a good start.

The current bill relies solely on the U.S. Preventive Services Task Force to determine which services will be covered at no cost. The problem is, several crucial women's health services are omitted. Senator MIKULSKI's amendment closes this gap. Under her amendment, the Health Resources and Services Administration will be able to include other important services at no cost, such as the well woman visit, prenatal care, and family planning.

These preventive services will truly improve women's health. For example, if all women got the recommended screening for cervical cancer, we could detect this disease earlier and prevent four out of every five cases of this invasive cancer. This will improve the health of our mothers, sisters, and our daughters. This bill and this amendment will make prevention a priority and not an afterthought.

Although I respect the efforts of my distinguished colleague from Alaska, the Murkowski alternative falls short. The Murkowski amendment does nothing to guarantee women will have improved access to coverage and cost-sharing protections for preventive services. Rather than establish objective, scientific standards about which preventive services should be covered, this alternative only requires insurers to consult with medical organizations when making coverage decisions.

While we know the U.S. Preventive Services Task Force recommendations do not cover all necessary services, the Murkowski amendment entirely removes even this basic coverage requirement from the bill, leaving women without any protections under health care reform for essential preventive care. This means that important preventive care for women, including screening for osteoporosis and sexually transmitted infections, may not be covered by insurance plans.

In the simplest terms, the Murkowski amendment maintains the status quo, and we know the status quo is not working for millions of women who are forgoing preventive care because they simply cannot afford it. The Murkowski amendment continues to leave prevention coverage decisions up to health insurance companies, and that means there would be no guarantee



that any health plan will cover basic preventive services at all.

Do we want to leave these important decisions up to the insurance companies? The health of American women is too important to leave in their hands. That is why I urge my colleagues to support Senator MIKULSKI's amendment and vote to make sure women can get the preventive screenings they need to stay healthy. Most important, this amendment will make sure women have access to these lifesaving screenings at no cost.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. FRANKEN. I request another 45 seconds.

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

Mr. FRANKEN. Madam President, prevention is just one of the ways this bill will improve women's health. It also ends insurance companies' practice of charging women more because they happen to be women, or denying coverage based on a history of pregnancy, C-section, or domestic violence.

We need to pass this bill this year to ensure comprehensive, affordable care for women throughout the country. And we need to include this amendment because I want to be able to look my wife in the eye, I want to be able to look my daughter in the eye—my son, too—and my future grandchildren in the eye and say we did everything we could in this bill to improve women's health. We cannot wait any longer. I urge all my colleagues to stand with us and support this amendment.

I yield the floor.

Mr. ENZI. Madam President, I yield 5 minutes to the Senator from Oklahoma.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Madam President, it is interesting, as a practicing physician who has actually cared for women and nobody so far who has been in on this debate has ever done. I congratulate the Senator from Maryland for her care about prevention because we all know that is key.

The mischaracterization we heard about this bill is astounding. The reason we got in trouble with the Preventive Task Force is because it did something that was inappropriate and did not have the appropriate professional groups on its task force when it made its recommendation on breast cancer screening.

The Murkowski amendment says we will rely on the professional societies to make the determinations of what must be available. We have heard the Senator from Iowa say health insurance will decide that. That is absolutely untrue. Health insurance will not decide it. The professional societies will decide what will be covered, and the insurance companies must cover it under the Murkowski amendment.

The second point is there will not be any objective criteria. The objective

criteria doctors practice under today are the guidelines of their professional societies.

Here is the difference between the Murkowski amendment and the Mikulski amendment: The Senator from Maryland relies on the government to make the decision on what will be covered. She refers to the Health Resources and Services Administration. She refers to the Health Resources and Services Administration which has no guidelines whatsoever on women's health care right now, other than prenatal care and childcare. That is the only thing they have.

For whom does HRSA work? HRSA works for the Secretary of Health and Human Services. So the contrast between these two amendments could not be any more clear in terms of do we want to solve the problems we just experienced on mammogram recommendations? We can let the government decide, which got us into this trouble, and they will set the practice guidelines and recommendations for screening or you can let the American College of Obstetricians and Gynecologists or the American College of Surgeons or the American College of Oncologists set and use their guidelines.

The choice is simple: The government can decide what care you get or the people who do the care, the professionals who know what is needed, who write the peer-reviewed articles, who study the literature and make the recommendations for their guidelines.

Every month I get from the American College of Obstetricians and Gynecologists their new guidelines. I try to follow them at every instance. The fact is, the Mikulski amendment says government will decide. That is what it says. The government will decide through HRSA. The Murkowski amendment says it is the best practices known by the physicians who are out there practicing. What is the difference? How does it apply to you as a woman? It applies to you as a woman because the people who know best get to make the recommendations rather than a government bureaucracy. That is the difference.

If you will recall, under the stimulus bill we passed, we have a cost comparative effectiveness panel, which will surely be in the mix associated with the recommendations. If you look at what the task force on preventive recommendations said from a cost standpoint, they were absolutely right. From a patient standpoint, they were absolutely wrong.

The real debate on this bill—the Mikulski amendment is the start of the real debate—is do we have the government decide based on cost or do we have the professional caregivers who know the field decide based on what is best for that patient. That is the difference.

What the Senator from Alaska does, which is necessary, is she says we will rely on the American College of Obstet-

rics and Gynecology. We will rely on the American College of Surgeons. We will rely on the American College of Oncologists to determine what should be the screening recommendations for patients.

For, you see, what happens with the Mikulski amendment is the government stands between you and your doctor. That is what is coming. That is what will be there.

There is no choice under the Murkowski amendment for an insurance company to have the option either to cover or not to cover. They must. It says "shall" do that. So the mischaracterizations on what the Murkowski amendment actually says and does are unfortunate.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. COBURN. I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Maryland.

Ms. MIKULSKI. Madam President, how much time does our side have?

The ACTING PRESIDENT pro tempore. There is 17 minutes 15 seconds remaining.

Ms. MIKULSKI. I yield 5 minutes to the Senator from Michigan.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Ms. STABENOW. Madam President, first, I thank Senator MIKULSKI for her leadership not only on this important amendment but on so many issues in health care, issues for women across this country. We are honored to call her dean for all of us as it relates to focusing on the issues that are so critical to women and their families.

I thank Senator REID for making this a priority and making this the first amendment we are offering in this debate.

We all know that often women are the ones making health care decisions for their families as well as themselves. They are more likely to be the person making health insurance choices. Women of childbearing age pay on average 68 percent more for their health care than men do. We have so many instances in which insurance companies are standing between women and their doctors right now in making decisions—decisions not to cover preventive services, such as a mammogram screening or a cervical cancer screening, decisions to call pregnancy a preexisting condition so women cannot get health insurance, decisions not to cover maternity care so that women and their babies can get the care they need so that babies can be successful in life, both prenatal care and postnatal care.

Women of this country have a tremendous stake in health care reform. We pay more now, if we can find coverage at all, and there are too many ways in which insurance companies block women from getting the basic health services they need.

This amendment is critically important to make sure that women are able

to get preventive care services without a deductible and without copays. This amendment recognizes the unique health needs of women. It requires coverage of women's preventive services developed by women's health experts to meet the unique needs of women.

Why do we stress that? We stress that because for years we have struggled in so many areas to make sure that women's health needs were focused on and not just health in general. When we look at research through the National Institutes of Health and what it took to get to a place where research would be done for women on women's subjects or on female mice or rats rather than male subjects to make sure that the differences between men and women were considered in research, we have made important steps in that direction. Again, Senator MIKULSKI was leading the way as it relates to having a women's health research effort in our country.

This is one more step to make sure we are covering women's preventive services developed by women's health experts for the unique needs of women. That is what this is all about—making sure women have access to preventive services such as cervical cancer screenings, osteoporosis screenings, annual mammograms for women under 50, pregnancy and post partum screenings, domestic violence screenings, and annual checkups for women.

We know more women die of heart disease than actually any other disease. This is something I do not think is widely known. We have even heard that many physicians do not realize the extent to which heart disease is prevalent in women. All of us women have worked together on a women's heart bill and part of that is for screenings. Part of that is to make sure we are screening for heart disease and strokes, the No. 1 killer of women. This would make sure those screenings would be part of health care reform.

I could go on to list all the different prevention items, but I will simply say that when we are talking about women's health and we are talking about women's lives, this is an incredibly important amendment to adopt.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Ms. STABENOW. I yield the floor.

Mr. ENZI. Madam President, I yield 5 minutes to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I rise to speak on the Mikulski amendment and the Murkowski amendment because I feel very passionate about women's issues. In fact, Senator MIKULSKI and I have worked throughout my time in the Senate and her time before me on these very issues—assuring that women's health care concerns, which are different from men's in many instances, are a part of any health care coverage in our country, and ongoing we must assure the same.

I have been an advocate for cancer screening services for women, and I was dismayed when I saw the U.S. Preventive Services Task Force a few weeks ago issuing new guidelines for cancer screening for women—breast cancer screening for women. We have all lived with breast cancer throughout the course of the history of women, but especially in the last probably 25 years the strides that we have made in saving lives and in the survivability of women with breast cancer is because we have had early detection. We don't have a cure for breast cancer, and we are all fighting for that cure, but until we get it, the first line of defense is early detection.

So now we have a new task force recommendation that says everything we have had and enjoyed over the last 25 years in saving women's lives is no longer relevant because now, before the age of 50, you don't need a mammogram, and after the age of 50 it is every other year.

Well, I know Senator MIKULSKI and I agree we do not think that is right. Neither did any other woman in the Senate when that was proposed years ago by President Clinton. We all stood up and said no. I am standing up and I am saying no once again, and I am sure every woman in the Senate is, as many women in America are.

But the Mikulski amendment doesn't actually fully address the problem of having the task force—which is relied on 14 times in the bill before us—as the arbiter of what is necessary for our government program and that it then will surely become the private sector standard as well. That task force even has money allocated to advertize its task force recommendations. So rather than the Mikulski amendment severing the ties with the task force, the amendment now has another government agency that has the same capability to basically interfere between the woman and her doctor, which is where we want the decisions to be made. Coverage decisions will be dictated by both the task force and a new Health Resources and Services Administration entry into the mix.

While I certainly agree with Senator MIKULSKI about the importance of preventive services for women and insurance coverage decisions, I can't support her amendment because we still have not one but two government task forces and committees that will be in the middle of these health care coverage decisions. I think the coverage decisions should be made by doctors and their patients. That is why I have joined with Senator MURKOWSKI in offering the alternative approach. This is what we should expect from any future health care reform, and it is certainly what we expect today.

The Murkowski amendment will leave the medical decisions to the guidelines established by those who know medical treatment best, which is our own doctors. In fact, we have just received a CBO assessment of what the

Murkowski amendment would cost, and it actually says there will be a savings. So rather than the Mikulski amendment, which would spend \$1 billion over 10 years, the Murkowski amendment would actually save \$1.4 billion over 10 years. Why? Because the Murkowski amendment relies on the combined commonsense and clinical judgment of American physicians.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mrs. HUTCHISON. So, Madam President, I urge a vote for the Murkowski amendment. I know we have the same goals as Senator MIKULSKI and her amendment, but I don't believe the Mikulski amendment achieves the goal of having a woman and her doctor make the decisions for her. That is the key that I think is so important in this debate. I urge a vote for the Murkowski amendment.

I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Ms. MIKULSKI. Madam President, I yield 4 minutes to the Senator from the State of Washington, who has been a real leader on these issues.

By the way, Madam President, before the Senator speaks, I want to thank Senator STABENOW for a unique courtesy. This is her desk, and as many of my colleagues know, I broke my ankle and I can't get up to where my desk is at this point. I will, however, in a matter of another few weeks. But she has given me this desk on loan so that I could stand on my own two feet to debate this amendment, and I wanted to thank her for the courtesy.

Madam President, I also want to note something while the senior Senator from the Republican leadership is here, and the author of the amendment. We, the women of the Senate, on a bipartisan basis, have worked for women's health. Today, we disagree on what is the best way to achieve it by these two amendments. I want to thank my colleagues for setting a tone of civility. I think this has been one of the most rational, civilized conversations we have had over this, and I would like to thank them.

As the leader on this side of the aisle, in terms of seniority, I would like to extend my hand in friendship and suggest when this bill is done, and this amendment is done, we continue to focus on this wonderful work that we have done together. We have done things that have saved millions of lives, and so I look forward to continuing that.

Madam President, I now yield 4 minutes to the Senator from the State of Washington, Mrs. MURRAY.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Madam President, I thank my colleague from Maryland, and I would just say that wherever she stands on the floor of the Senate, she leads us all. So we are delighted you are here and thank you so much for

your leadership on this critical issue of making sure women have access to quality preventive health care services and screenings which are so critical to women across the country.

Madam President, the Senator from Maryland offered this amendment, and I worked with her in the committee. She has been a leader on this for many years, and I echo her comments as well that this has always been an issue. For as long as I have been here—since 1993—the women in the Senate, on both sides of the aisle, have stood up to make sure that women's care is part of health care, and we understand we have to stand shoulder to shoulder. It is unfortunate at this time that we see this in a little different light, but I agree with Senator MIKULSKI. We will keep working together throughout our time here to make sure women's preventive services are covered.

I do support the Mikulski amendment and the MIKULSKI approach. Her amendment requires all health plans to cover comprehensive women's preventive care and screenings at no cost to women. I just wanted to come to the floor for a minute and point out why this is so important.

When the economy is hurting, women on the whole tend to think of caring for their families first and not caring for themselves. They take care of their children and their spouses first, and they end up delaying or skipping their own health care in order to take care of their families. In fact, we know in 2007, a quarter of women reported delaying or skipping their health care because of cost. In May of 2009, just 2 years later, a report by the Commonwealth Foundation found that more than half of women today are delaying or avoiding preventive care because of its cost.

That is not good for women, it is not good for their families, and it is not good for their ability to be able to take care of their families and to take care of themselves. So Senator MIKULSKI's amendment is extremely important, especially in this economic time. We know if women get the preventive care and care for their needs, then they are able to care for their families. Yet the situation we find ourselves in today is that women are not taking preventive care. They are not taking care of themselves. Therefore, when they get sick, they end up in the hospital and then their families are in trouble. So we know preventive services can save lives, and it means better health outcomes for women.

We have to make sure we cover preventive services, and this takes into account the unique needs of women. Senator MIKULSKI's amendment will make sure this bill provides coverage for important preventive services for women at no cost. Women will have improved access to well-women visits—important for all women; family planning services; mammograms, which we have all talked about so many times, to make sure they maintain their health.

Madam President, I want to emphasize that this amendment preserves the doctor-patient relationship and allows patients to consult with their doctors on what services are best for them. This has become a large topic of conversation over the last several weeks, and Senator MIKULSKI's amendment makes sure if a woman under 50 decides to receive an annual mammogram, this amendment will cover it. She will be able to work with her own doctor and take care of her health.

So, Madam President, I come to the floor today to strongly support the Mikulski amendment, to thank her for her leadership, and I hope we can get to and vote on this important issue and move on and pass health care reform.

My constituents, when I go home, say: Move on. Get this done. We have to take care of this because of our economy, because of the impact on small businesses, because of the rising costs of premiums, and because of the large number of people who are losing their health care coverage. This health care bill is going to make a major difference when we get it passed, and the American public can take a deep breath and say: Finally, our government has moved forward.

So let's get past this amendment. I support strongly the Mikulski amendment. Let's move on this bill and take a major step forward for health care coverage for all Americans and pass the health care bill.

Madam President, I yield the floor.

#### ABORTION

Mr. CASEY. Madam President, may I ask the Senator from Maryland to yield for a question about her amendment, No. 2791 to H.R. 3590, the purpose of which is to clarify provisions relating to first dollar coverage for preventive services for women?

Ms. MIKULSKI. Of course.

Mr. CASEY. Senator MIKULSKI had a similar amendment in the HELP Committee bill and at that time, I commended the Senator on its substance as I am a strong supporter of preventive care for women. I thank her for offering this important amendment and particularly for calling our attention to the importance of first dollar coverage of preventive services for women.

Ms. MIKULSKI. I thank the Senator.

Mr. CASEY. Particularly in view of some of the recent controversy about mammograms and coverage, I am particularly grateful that the Senator has clarified this with this amendment and allow for the fact that preventive services must preserve the doctor-patient relationship. Thus, women under 50 may decide with their doctor that they should have a mammogram screening and this amendment would ensure coverage of such service.

Ms. MIKULSKI. That is correct.

Mr. CASEY. There is one clarification I would like to ask the Senator. I know we discussed it during the HELP markup and it was not clarified at that time and thus I chose to vote against the amendment because of the possi-

bility that it might be construed so broadly as to cover abortion. But I understand that the Senator has now clarified specifically that this amendment will not cover abortion in any way. Specifically, abortion has never been defined as a preventive service and there is neither the legislative intent nor the language in this amendment to cover abortion as a preventive service or to mandate abortion coverage in any way. I ask the Senator is that correct?

Ms. MIKULSKI. Yes, that is correct. This amendment does not cover abortion. Abortion has never been defined as a preventive service. This amendment is strictly concerned with ensuring that women get the kind of preventive screenings and treatments they may need to prevent diseases particular to women such as breast cancer and cervical cancer. There is neither legislative intent nor legislative language that would cover abortion under this amendment, nor would abortion coverage be mandated in any way by the Secretary of Health and Human Services.

Mr. ENZI. Madam President, I yield 2 minutes to the Senator from Kansas.

Mr. BROWNBACK. Madam President, I rise in support of the amendment of the Senator from Alaska, and I have talked with my good friend, the Senator from Maryland, Ms. MIKULSKI, about a side issue in this overall debate about what is included in the definition of preventive care. The Senator from Maryland stated in a colloquy that "there are no abortion services included in the Mikulski amendment." She has stated that in colloquy.

I have trouble, however, because I believe a future bureaucracy could interpret it differently. So I asked my friend from Maryland if she would include clear legislative language in this saying simply:

Nothing in this Act shall be construed to authorize the Secretary, or any other governmental or quasi-governmental entity, to define or classify abortion or abortion services as "preventive care" or as a "preventive service."

I think that clarifies the issue, and it would be my hope that my colleague from Maryland would include that in her language. It is not in there, even though there have been statements on the floor. But, as we all know as legislators, it is one thing to say something on the Senate floor, and it is one thing to have a colloquy, but it is far different to have it written in the base law. This is not in the base law.

So I would urge my colleague, the Senator from Maryland, to include this language. Absent that, I think there is too much room for a broader definition of what preventive care means; that it could include abortion services as well, and I would urge my colleagues to vote against the Mikulski amendment if that is the case.

On that ground, I think there are other issues involved, and that is why I think the approach of the Senator from

Alaska is superior, while maintaining the doctor-patient privilege. I think this is a good debate for us to have, given these recent discussions. But absent this change, I think there is another issue that is involved that I would urge my colleagues to consider.

Madam President, I want to yield back to maintain some time for the Senator from Wyoming to be able to speak, so I yield the floor.

Mr. FEINGOLD. Madam President, disappointed that the Senate health care debate has gotten off on the wrong foot. The first amendment voted on would add almost a billion dollars to our budget deficits over the next 10 years. We should make sure health plans cover women's preventive care and screenings, but we should also find a way to pay for it, rather than adding that cost to the already mountainous public debt. At a time of record deficits, Americans expect fiscal responsibility from their representatives in Congress.

The PRESIDING OFFICER (Mr. KIRK). Who yields time?

Ms. MIKULSKI. Mr. President, we are waiting for Senator BOXER to come to the floor, so if the other side of the aisle has another speaker, I know at the end we hope that Senator LISA and Senator BARB—I say that because our last names sound so much the same—could wrap it up.

How would the Senator from Wyoming like to proceed? We are waiting for Senator BOXER or for Senator BAUCUS.

Mr. ENZI. Mr. President, I yield 10 minutes to the Senator from Alaska so she can actually propose her amendment that we have been debating and take up to 10 minutes.

Ms. MIKULSKI. Then I will wrap up.

Mr. ENZI. That would still leave us with 2 minutes. If it does leave us with 2 minutes, then I would have the Senator from Wyoming use that 2 minutes.

Ms. MIKULSKI. Whatever way it will work and accommodate you while we are waiting to see who our speakers are.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Ms. MURKOWSKI. Mr. President, I want to start my comments by acknowledging my colleague from Maryland and accept her gracious offer to continue to work on this issue as it relates to women's health and women's health services. As has been noted by the Senator from Maryland and the Senator from Washington, this is an issue that we women of the Senate have come together on repeatedly, to work cooperatively. While we do have, some would say, somewhat dueling amendments here, I think it is important to recognize the goals we are both seeking to attain here are certainly right in alignment. We are just choosing different means to get there. But I appreciate, again, the civility and cooperation from not only Senator MIKULSKI but the other women of the Senate on this very important issue.

I wish to reiterate a couple of points about my amendment that I made yesterday.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I fear the microphone of the Senator from Alaska is not working.

Ms. MURKOWSKI. Is that better?

Ms. MIKULSKI. That is so much better. I want to hear about the amendment and continue our conversation.

Ms. MURKOWSKI. The Senator just missed all the kind remarks I directed to her attention.

Ms. MIKULSKI. I ask unanimous consent she be extended an additional 2 minutes. No, I withdraw that request.

Ms. MURKOWSKI. I will make sure those comments that were made for the RECORD will be delivered to the Senator personally.

I want to reiterate some points I made yesterday about my amendment and I will also share with my colleagues, I know the Senator from Texas mentioned it as well, the CBO score we received late last evening. It provides us with a score showing a cost savings of \$1.4 billion over the next 10 years. I think this is significant, as Members, certainly from the other side, raised the importance of fiscal discipline and our fiduciary responsibility here. Importantly, the CBO indicated the provisions on the second page which prevent the Secretary from using the recommendations of the USPSTF to deny coverage would cost money which means we are protecting certain benefits and that is very important.

The amendment we will have before us, the Murkowski amendment, is one that allows or requires a level of transparency with the recommended health screenings, prevention services that are deemed necessary not by some task force that is appointed by folks within the administration, not by some commission that has political relationships. What we are urging is that the health screenings, the preventive services, be determined by those who are actually in the field, those practitioners—those who are engaged in oncology, OB/GYNs. We need to be looking to the experts. We need to be looking to that peer-reviewed science. We don't need to be looking to those entities that have been brought together by a government entity or by the Secretary. We need to be looking to the likes of the American Society of Clinical Oncology, the American College of Surgeons, the American College of Radiation Oncology, the American College of Obstetrics and Gynecology. We need to look to their recommendations.

Again, as I mentioned yesterday in my comments, if you go to their Web sites, if you look to their specific recommendations, they will give guidance, guidance that, again, is based on their practice in oncology, their practice as an OB/GYN. Look to what they set out as the guidelines for cervical cancer screening, for mammograms,

and let that information be made available publicly through the pamphlets, the plans that come together from the insurance companies. But allow them—allow me, as a consumer of health care, me as a consumer looking for the best plan for me and my family—to know what those guidelines are, not from a government task force but from those who are the real experts. I think this is the transparency that health care shoppers are looking for.

Some have suggested: LISA, your amendment doesn't require the insurance companies to provide any prevention or screening services. There is no mandate in there. If we do not have a mandate, then the insurance companies are not going to provide health care prevention and screening services.

I think we need to ask the question here, what is the point of prevention? It is to prevent more expensive care in the future by preventing the chronic and more acute illnesses. So should not the insurance companies want to utilize more preventive services, utilize more screenings, more wellness services, in order to keep down the costs of care based on the judgment of the doctors, based on the judgment of the professionals, and not necessarily those who, again, are part of a government entity?

I know within my staff I have a member who is on the FEHBP plan, but they contact her on a somewhat regular basis about her diabetes care, ensuring she is taking her medications, getting the necessary preventive services offered by her insurer for her particular condition.

It has been mentioned by several of my colleagues that this USPSTF is not such a bad group of guys, they are not just these nameless, faceless bureaucrats. I think it is important to recognize, and even the American Heart Association has recognized it, that the Preventive Services Task Force is limited to only primary care doctors and not specialists such as the oncologists, the cancer doctors who see patients every day battling cancer. These doctors who are providing Americans with their suggestions on what services are necessary for cancer screenings, but yet these doctors are not part of this task force, have again shone the spotlight on what happens when you have a government entity or government task force that is basically the one saying this is what is going to be covered, this is not what is going to be covered. In my amendment, we specifically provide that the recommendations from USPSTF cannot be used to deny coverage of an item or service by a group health plan or health insurance offeror. I think that is very important.

I think it is also important to recognize that what we do in my amendment is make sure the health plans consult the recommendations and guidelines of the professional medical organizations to determine what prevention benefits should be covered by these health insurance plans throughout the country.

We also require plans to provide this information directly to the individuals. You get to see it for yourself. You get to make that determination. So what that means is the doctors and the specialists will be recommending what preventive services to cover, not those in Washington, DC.

My amendment ensures that the Secretary of Health and Human Services shall not use any of the recommendations, again made by the task force, to deny coverage. We also include broad protections to prevent bureaucrats at the Department of Health and Human Services from denying care to patients based on comparative effectiveness research. And finally, we have a provision that ensures the Secretary of Health and Human Services may not define or classify abortion or abortion services as preventive care or as preventive services.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. MURKOWSKI. I appreciate that. I think my amendment is straightforward. I think it is a good compromise and again it is a clear differential between what we are going to do to allow a woman to have full choice with her doctor as opposed to government telling us who we should be seeing.

AMENDMENT NO. 2836 TO AMENDMENT NO. 2786

Mr. President, I ask consent to call up my amendment, No. 2836.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Ms. MURKOWSKI] for herself, Mrs. HUTCHISON, and Mr. JOHANNIS, proposes an amendment numbered 2836 to amendment No. 2786.

Ms. MURKOWSKI. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To ensure patients receive doctor recommendations for preventive health services, including mammograms and cervical cancer screening, without interference from government or insurance company bureaucrats)

On page 17, strike lines 11 through 14.

On page 17, line 15, strike “(2)” and insert “(1).”

On page 17, line 20, strike “(3)” and insert “(2).”

On page 17, between lines 24 and 25, insert the following:

“Notwithstanding any other provision of law, the Secretary shall not use any recommendation made by the United States Preventive Services Task Force to deny coverage of an item or service by a group health plan or health insurance issuer offering group or individual health insurance coverage or under a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a-7b(f))) or private insurance.

“(b) DETERMINATIONS OF BENEFITS COVERAGE.—A group health plan and a health insurance issuer offering group or individual health insurance coverage shall, in determining which preventive items and services to provide coverage for under the plan or

coverage, consult the medical guidelines and recommendations of relevant professional medical organizations of relevant medical practice areas (such as the American Society of Clinical Oncology, the American College of Surgeons, the American College of Radiation Oncology, the American College of Obstetricians and Gynecologists, and other similar organizations), including guidelines and recommendations relating to the coverage of women's preventive services (such as mammograms and cervical cancer screenings). The plan or issuer shall disclose such guidelines and recommendations to enrollees as part of the summary of benefits and coverage explanation provided under section 2715.”

On page 17, line 25, strike “(b)” and insert “(c).”

On page 18, lines 3 and 4, strike “or (a)(2).”

On page 18, line 4, strike “(a)(3)” and insert “(a)(2).”

On page 18, line 11, strike “(c)” and insert “(d).”

On page 124, between lines 22 and 23, insert the following:

(d) RULE OF CONSTRUCTION WITH RESPECT TO PREVENTIVE SERVICES.—Nothing in this Act (or an amendment made by this Act) shall be construed to authorize the Secretary, or any other governmental or quasi-governmental entity, to define or classify abortion or abortion services as “preventive care” or as a “preventive service.”

On page 1680, strike lines 10 through 12, and insert the following:

“(A) to permit the Secretary to use data obtained from the conduct of comparative effectiveness research, including such research that is conducted or supported using funds appropriated under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), to deny coverage of an item or service under a Federal health care program (as defined in section 1128B(f) or private insurance; or”.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I am going to speak very briefly on the pending subject and then let the sponsor of the amendment, that is the Mikulski amendment, finish up here. I think it is very telling—I know this point has been made before but I think it bears repeating—the American Heart Association, American Stroke Association has written and released to the Senate this letter. I will read the most important part here. Basically they say they strongly support requiring health plans and Medicare providing first dollar coverage for clinical preventive services that are evidence based and necessary for the prevention or early detection of an illness or disability. We all agree with that.

They go on then to comment on the Murkowski amendment, saying they appreciate the Murkowski amendment recognized the value of the guidance and recommendations but they go on to say that even these guidelines must be held to a standard of being evidence based.

I might say, I run across this over and over again in the medical profession—medical experts. We need to keep moving more and more toward evidence-based medicine.

This statement from the American Heart Association, American Stroke Association, goes on to say:

In addition, we are concerned that Senator Murkowski's preventive health services amendment would take a step backwards by substituting the judgment of the independent U.S. Preventive Services Task Force with the judgment of private health insurance companies.

Frankly, it is a point I very much agree with. I don't think we want the judgment of private health insurance companies making these decisions. I think it is appropriate the sponsor of the amendment finish. She is doing a very good job.

Mr. ENZI. I will yield our final minute to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, my wife Bobbi was diagnosed with breast cancer by a screening mammogram in her forties. It is that screening mammogram that has saved her life. By the time of the mammogram, the tumor had spread and she has had two operations and two full bouts of chemotherapy. I do not want a government bureaucrat making a decision for the women of America if they should be allowed to have screening mammograms. It saves lives—1 in 1900, for women in their 40s.

The Reid bill empowers bureaucrats to decide what preventive benefits will be allowed for American women. The amendment from the Senator from Maryland does the same—bureaucrats, not the physicians who are doing the treating. That is why I support the amendment of the Senator from Alaska, because that amendment says the Federal Government cannot use recommendations of the U.S. Preventive Services Task Force, recommendations from bureaucrats, to deny care to anyone including seniors on Medicare—anyone in America. That is how this decision should be made, not by government bureaucrats.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, how much time is there on our side?

The PRESIDING OFFICER. The Senator has 3 minutes.

Ms. MIKULSKI. Mr. President, I yield myself 3 minutes.

As we get ready to conclude the debate on both the Mikulski as in BARBARA MIKULSKI and Murkowski as in LISA MURKOWSKI amendments, I want to first say a word about the Senator from Alaska. We have worked together on the Health, Education, Labor and Pensions Committee. We have worked together as women of the Senate, to provide access to women's health services. Not too long ago, when I had my awful fall, she gave me much wisdom and counsel and practical tips because she herself had broken her ankle. To us, when you say to Senator LISA or Senator BARB, “Break a leg,” it has a whole different meaning. I again thank her for all her work. I have great respect for her. I look forward to our continued working together.

But I do sincerely disagree with her amendment because what her amendment does is, it guarantees, really, only information. It does not guarantee universal access to preventive and screening services.

It also does not remove the cost barriers by eliminating the high deductibles for the copayments when you go to get a preventative or screening service. It tells insurance companies to give information on recommended preventative care. That is a good thing, but it is a threshold thing. You need to have universal access to the service.

In addition, we do not mandate that you have the service; we mandate that you have access to the service. The decision as to whether you should get it will be a private one, unique to you. We leave it to personalized medicine. So in the poignant case of the wife of the Senator from Wyoming, it would have been up to the doctor, the physician, to get her the service she needed.

It is not only I or one side of the aisle that is opposing the Murkowski amendment. The American Cancer Society, the American Heart Association, and the American academy of GYN services oppose it.

My amendment is a superior amendment because it guarantees universal access to preventative and screening services. It also eliminates one of the major barriers to accessing care by getting rid of high payments and deductibles. It doesn't say you will have a mammogram at 40 because, again, we are substituting ourselves for the task force; it says you will have universal access to that mammogram if you and your doctor decide it is medically necessary or medically appropriate.

Vote for Mikulski. Don't vote for Murkowski. And please, on this one, get it straight.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 2791 offered by the Senator from Maryland, Ms. MIKULSKI, as amended.

Ms. MIKULSKI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 61, nays 39, as follows:

[Rollcall Vote No. 355 Leg.]

#### YEAS—61

Akaka	Collins	Kirk
Baucus	Conrad	Klobuchar
Bayh	Dodd	Kohl
Begich	Dorgan	Landrieu
Bennet	Durbin	Lautenberg
Bingaman	Feinstein	Leahy
Boxer	Franken	Levin
Brown	Gillibrand	Lieberman
Burris	Hagan	Lincoln
Byrd	Harkin	McCaskill
Cantwell	Inouye	Menendez
Cardin	Johnson	Merkley
Carper	Kaufman	Mikulski
Casey	Kerry	Murray

Nelson (FL)  
Pryor  
Reed  
Reid  
Rockefeller  
Sanders  
Schumer

Shaheen  
Snowe  
Specter  
Stabenow  
Tester  
Udall (CO)  
Udall (NM)

Vitter  
Warner  
Webb  
Whitehouse  
Wyden

#### NAYS—39

Alexander  
Barrasso  
Bennett  
Bond  
Brownback  
Bunning  
Burr  
Chambliss  
Coburn  
Cochran  
Corker  
Cornyn  
Crapo

DeMint  
Ensign  
Enzi  
Feingold  
Graham  
Grassley  
Gregg  
Hatch  
Hutchison  
Inhofe  
Isakson  
Johanns  
Kyl

LeMieux  
Lugar  
McCain  
McConnell  
Murkowski  
Nelson (NE)  
Risch  
Roberts  
Sessions  
Shelby  
Thune  
Voinovich  
Wicker

The PRESIDING OFFICER (Mr. BURRIS). On this vote, the yeas are 61, the nays are 39. Under the previous order requiring 60 votes for the adoption of this amendment, amendment No. 2791, as amended, is agreed to. Under the previous order, the motion to reconsider is considered made and laid upon the table.

#### AMENDMENT NO. 2836

Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 2836, offered by the Senator from Alaska, Ms. MURKOWSKI.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise in opposition to the Lisa Murkowski amendment. Though well-intentioned, it does not guarantee universal access to preventive and screening services for women. It does not remove the cost barriers of high payments and deductibles. It is opposed by the American Cancer Society and the American Heart Association. It primarily provides information on those matters.

We salute her intention, but we think her amendment is too limited, and, to quote the American Heart Association, it would be an actual "step backwards" in the area of making preventive services available, particularly not only in the matter of cancer but in heart and vascular disease—the emerging No. 1 killer for women.

I urge defeat of the Murkowski amendment.

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

The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, the purpose of this amendment is to ensure we do not have government entities that are making those decisions we as individuals working with our doctors feel is best.

The intent behind this amendment is to ensure that those medical professional organizations, whether it is the American Society of Clinical Oncology or the American College of Surgeons or the American College of Radiation Oncology or the American Society of Obstetricians and Gynecologists—those who are in the practice, those who are making the recommendations—these are the individuals we want to know are being consulted, not some entity

that has been created by those of us in the government or by some administration, by some Secretary.

So what we propose with this amendment is an insurance offering, if you will. You will know fully what is part of your plan. It is you and your doctor making these decisions.

I urge a "yes" vote on this amendment.

Mr. ENSIGN. Mr. 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 Murkowski amendment.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

The result was announced—yeas 41, nays 59, as follows:

[Rollcall Vote No. 356 Leg.]

#### YEAS—41

Alexander  
Barrasso  
Bennett  
Bond  
Brownback  
Bunning  
Burr  
Chambliss  
Coburn  
Cochran  
Collins  
Corker  
Cornyn  
Crapo

DeMint	McCain
Ensign	McConnell
Enzi	Murkowski
Graham	Nelson (NE)
Grassley	Risch
Gregg	Roberts
Hatch	Sessions
Hutchison	Shelby
Inhofe	Snowe
Isakson	Thune
Johanns	Vitter
Kyl	Voinovich
LeMieux	Wicker
Lugar	

#### NAYS—59

Akaka  
Baucus  
Bayh  
Begich  
Bennet  
Bingaman  
Boxer  
Brown  
Burris  
Byrd  
Cantwell  
Cardin  
Carper  
Casey  
Conrad  
Dodd  
Dorgan  
Durbin  
Feingold  
Feinstein

Franken	Mikulski
Gillibrand	Murray
Hagan	Nelson (FL)
Harkin	Pryor
Inouye	Reed
Johnson	Reid
Kaufman	Rockefeller
Kerry	Sanders
Kirk	Schumer
Klobuchar	Shaheen
Kohl	Specter
Landrieu	Stabenow
Lautenberg	Tester
Leahy	Udall (CO)
Levin	Udall (NM)
Lieberman	Warner
Lincoln	Webb
McCaskill	Whitehouse
Menendez	Wyden
Merkley	

The PRESIDING OFFICER. On this vote, the yeas are 41, the nays are 59. Under the previous order, requiring 60 votes for the adoption of amendment No. 2836, the amendment is withdrawn.

Mr. NELSON of Nebraska. Madam President, this afternoon I voted against the amendment offered by my colleague, the senior Senator of Maryland, Ms. MIKULSKI.

I voted against this amendment with regret because I strongly support the underlying goal of furthering preventive care for women, including mammograms, screenings, and family planning. Unfortunately, the amendment did not incorporate language I suggested to specifically clarify that abortion would not be covered as a future preventive care service. I appreciate the assurances from Senator MIKULSKI in a colloquy on the floor that abortion would not be covered as a preventive service, but words do not supersede the language in the legislative text. I do



look forward to ways in which Congress can further preventive care services for women.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 2826 TO AMENDMENT NO. 2786

Mr. BENNET. Mr. President, I have an amendment No. 2826 at the desk. I would like to call it up at this time.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from Colorado [Mr. BENNET], for himself, Mr. HARKIN, Mr. DODD, Mr. BROWN, Mr. DURBIN, Mrs. LINCOLN, Mr. WYDEN, Mr. BEGICH, Mr. BAYH, and Mrs. SHAHEEN, proposes an amendment numbered 2826 to amendment No. 2786.

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

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

The amendment is as follows:

(Purpose: To protect and improve guaranteed Medicare benefits)

On page 1134, between lines 3 and 4, insert the following:

**Subtitle G—Protecting and Improving Guaranteed Medicare Benefits**

**SEC. 3601. PROTECTING AND IMPROVING GUARANTEED MEDICARE BENEFITS.**

(a) PROTECTING GUARANTEED MEDICARE BENEFITS.—Nothing in the provisions of, or amendments made by, this Act shall result in a reduction of guaranteed benefits under title XVIII of the Social Security Act.

(b) ENSURING THAT MEDICARE SAVINGS BENEFIT THE MEDICARE PROGRAM AND MEDICARE BENEFICIARIES.—Savings generated for the Medicare program under title XVIII of the Social Security Act under the provisions of, and amendments made by, this Act shall extend the solvency of the Medicare trust funds, reduce Medicare premiums and other cost-sharing for beneficiaries, and improve or expand guaranteed Medicare benefits and protect access to Medicare providers.

Mr. BENNET. Mr. President, I was paying very close attention to the floor debate over the last few days, and at times I am beginning to wonder what bill it is we are debating. Only in Washington could an effort to extend the life of the Medicare trust fund be viewed or distorted somehow as being unfair or bad for seniors.

We know—and it is in print in the CBO report—this bill doesn't take away any senior's guaranteed Medicare benefits. We know the bill extends Medicare solvency for 5 additional years. How does it do that? It does it in a way that is different from the way government usually does business, which is either adding or cutting from a program. It changes the way we deliver medicine in this country, and it does it in a way that protects senior benefits, and it extends the life of Medicare.

The attacks on this bill and my amendment have nothing to do with those facts. The sad part is that there are ideas on every side of this debate that are worth considering. We should be debating those ideas rather than claiming something that is just not true about the bill.

These Washington tactics of trying to shift health care reform back to some committee to languish is exactly why nothing ever gets done around here. The almost unbelievable part of this is that the opponents of my amendment say the health care bill hurts seniors. Yet the bill and our amendment is being supported by the AARP, the Alliance for Retired Americans, Center for Medicare Rights, and the National Committee to Preserve Social Security and Medicare.

What are the opponents of my amendment actually saying—that AARP and other senior advocates don't know what they are doing? They know what they are doing, and they also know what is in the bill. The AARP has seniors' best interests in mind, and they want what is best for Medicare in the long run. This bill makes tremendous strides to a more solvent, more stable Medicare Program for years to come.

Unfortunately, in the hopes of eventually trying to kill the bill, there are people who are making claims that are frightening our seniors—meant to frighten them—here and also in Colorado, where people have been calling on their phones convinced that somehow I want to cut their benefits. Nothing could be further from the truth. I believe strongly in the sacred trust we have created with our seniors. That is why I introduced this amendment. Seniors are looking for simple clarity, and health care reform can help their lives.

This amendment says, in the clearest and most unambiguous of terms, as directly as we can say it, that nothing in this bill will cut guaranteed Medicare benefits. All guaranteed Medicare benefits stay intact for every senior in Colorado and all across the country. Seniors will still have access to hospital stays, to doctors, home health care, nursing homes, and prescription drugs.

The second part of the amendment goes further and says clearly and directly to seniors that we will use this bill to further protect and strengthen Medicare. We will extend the life of the Medicare trust fund. We will lower premiums or cost share, increase Medicare benefits, and improve access to providers. You don't need to believe me. Look at the CBO. These improvements will be paid for with money saved in Medicare under this bill.

What is so regrettable about the debate, and so tragic, is, if we don't actually get this done, Medicare would be bankrupt in just 7 years—in 2017. In the Senate bill we are now considering, we extend the trust fund's solvency by 5 years. We lower premiums for seniors by \$30 billion over 10 years. That is real money back in the pockets of our seniors. We eliminate copays that seniors now have to pay for preventive care. That means when seniors go to the doctor for a colonoscopy, they would not have to make the copay like they have to under current law. When they go to get a mammogram, the same is true.

We know preventive care like that saves lives and also money.

Most seniors live on a fixed income. Free preventive care is the best way to encourage seniors to seek important medical precautions. More preventive care is proven to save lives and lower health care costs.

Mr. President, health care reform will cut the cost of brand-name prescription drugs in half for those who are stuck in the gap of coverage between initial and catastrophic coverage. We eliminate the 20-percent cut physicians would otherwise see next year, making sure seniors can continue to see their own doctor.

Opponents of health care reform don't have a plan to protect seniors and strengthen the Medicare Program. I have heard more criticism about the number of pages in the bill than I have heard about a responsible alternative that would extend the life of Medicare and make the other benefits that are in this bill.

I wanted to come to the floor with a simple and straightforward message to seniors: We will protect Medicare. This bill does. We will make sure nobody touches your guaranteed benefits. This bill does. We will make sure Medicare is around for future generations. This bill gets us started in that direction. That is why I have introduced this amendment and why I support health care reform.

Everything I have said today is entirely consistent with the findings of the CBO, the nonpartisan organization that advises this Chamber. This legislation makes explicit the commitment that all of us share to the seniors across the United States of America. It is my hope that once this amendment passes, we can get beyond the debate we have had over the last 72 hours and get on to the substantive aspects of the bill.

I urge support for my amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, over the past several months I have come to the floor on a couple of occasions to remind my colleagues and the American people about the unsustainable fiscal crisis confronting this country.

Our national debt has exceeded \$12 trillion for the first time in history. In fact from 2008 to 2009 alone, the Federal debt will increase 22 percent, boosting the country's debt-to-income ratio—or national debt as a percentage of GDP—from 70 percent last year to 86 percent this year. We have not seen this kind of debt to GDP ratio since the Second World War 65 years ago.

The American people know that this is unsustainable, but my Senate colleagues from on the other side of the aisle continue to ignore this reality. I pledged that I would continue to cry “the emperor has no clothes” until we did something to address this crisis.

I should explain. Most people know the story, “The Emperor's New Clothes,” by Hans Christian Anderson.

In the tale, an emperor goes about the land wearing a nonexistent suit sold to him by a new tailor who convinced the monarch the suit is made of the finest silks. The tailors—two swindlers—tell the emperor that the threads of his robes will be so fine that they will look invisible to those dimwitted, or unfit for their position. The emperor and his ministers, themselves unable to see the clothing, lavish the tailor with praise for the suit, because they do not want to appear dimwitted or incompetent.

Word spread across the kingdom of the emperor's beautiful new robes. To show off the extraordinary suit, a parade was formed. People lined the streets to see the emperor show off his new clothes. In this case, the health care reform bill before the Senate.

Again, afraid to appear stupid or unfit, everyone pretends to see the suit. It is only when a child cries out "the emperor wears no clothes" does the crowd acknowledge that the emperor is, in fact, naked.

Like the little boy crying out, those of us on this side of the aisle are pointing out this bill is fiscally not responsible.

Yet, while not addressing our current health care challenges, the so-called health care reform bill we are debating also creates new programs at a time when we aren't paying for the one we already have, and it adds \$2.5 trillion to what we are already spending.

I learned as a mayor and as a Governor, if you cannot afford what you are doing, how can you take on new responsibilities?

We could be using this opportunity to fix our health care system by finally working to lower health care costs and pass those savings on to citizens who are already overburdened by an expensive health care system.

Yet instead of commonsense incremental reforms that increase access to affordable, quality health care, reduce the costs of health care for all Americans, and lower our national health care spending, we have this bill before us.

Unfortunately, the bill violates the medical principle, first, do no harm. Instead, it is more of the same—more spending and more taxes—on an already struggling economy, this at a time when we are currently witnessing the worst recession this country has experienced since the Great Depression.

The legislation we are considering when fully implemented, as I pointed out, spends \$2.5 trillion to restructure our health care system. Yet it fails to rein in the cost of health spending in the next decade. According to the Congressional Budget Office, the Federal Government's commitment to health care; that is, the cost of health care paid for by the Federal Government, would actually increase. In other words, we are adding more on to this extraordinary debt we have—unfunded mandates we have—in terms of Medicare.

The bill's proponents will tell you it is paid for. But as David Broder points out in his November 22 Washington Post editorial:

While CBO said that both the House-passed bill and the one Reid has drafted meet Obama's test by being budget neutral, every expert I have talked to says the public has it right. These bills, as they stand, are budget-busters.

And that is what many people are hearing right now from their constituents, particularly many of those individuals who are taking advantage of the Medicare Advantage Program.

Furthermore, as former CBO Director Douglas Holtz-Eakin pointed out in the Wall Street Journal, this bill uses "every budget gimmick and trick in the books."

What are these gimmicks? Most troubling to me and what my colleagues on the floor have been discussing for the last few days is what the bill does to the Medicare Program.

I think we need to be honest with the American people. The Medicare Program is already on shaky footing. Despite \$37 trillion in unfunded—unfunded—future Medicare costs and the prediction that the Medicare trust fund is expected to be insolvent by 2017, this bill calls for \$465 billion in cuts to Medicare, not to fix the program but, as I said, to create new programs.

For example, this health care bill fails to acknowledge the \$250 billion that is necessary to reform the Medicare physician payment formula to ensure that our Nation's seniors will be able to see the doctor of their choice in the future. I have heard it firsthand from family and friends that in some places in Ohio, Medicare beneficiaries already face delays for physician services.

Right in my hometown, I have had doctors tell me: GEORGE, if I have somebody before they are Medicare eligible and they go on Medicare, I will take care of them. I am not taking anymore new Medicare patients because of the reimbursement system. I heard the same thing in terms of Medicaid.

We have a problem out there. Sadly, my friends on the other side of the aisle do not want to be honest with the American people and include the cost of the physician payment fix in the bill. It should be there. Let's be honest about it. Let's be transparent. It is another example, I think, of the smoke and mirrors and budget gimmicks and tricks that former CBO Director Douglas Holtz-Eakin mentioned.

Like I said, we must fix our health care system to help millions of Americans who find themselves without insurance and those struggling to pay their health insurance premiums. We must increase competition in the private market, make it easier for small businesses and individuals to purchase insurance and reform our medical liability system. I call this malpractice lawsuit abuse reform. We should have done that a long time ago. But the fact

is that the trial lawyers do not want that to happen. So we are doing nothing about a problem that is causing physicians to give unnecessary tests that are driving up the cost of health care in this country.

Most important, we need to focus our efforts on jobs, jobs, jobs, jobs, jobs because one of the best things we can do to increase health care coverage is to help businesses start to hire again. I need a job. One of the reasons I need a job is when I have a job, in most instances, I have some form of health care. We have a lot of people who are being dropped off. We need more jobs. We should be concentrating on that if we want to up the number of people who can get health care.

To repeat, we do not need to create another set of government programs that spends an additional \$2.5 trillion to build a new entitlement system when we cannot afford the one we have now. That is the biggest thing with me. If you cannot afford what you have, how can you take on more? When we do that, we are being fiscally irresponsible. We should deal with what we have. It is amazing to me. If you look around the country, States are cutting their expenses and they are raising taxes. And what are we doing in Washington? We are taking on more expensive programs we cannot afford. That is what I think is troublesome to me as a debt hawk.

We need to understand what we are doing. The American people are paying attention and they know that the emperor has no clothes when it comes to doing something about our unsustainable fiscal crisis.

We are losing our credibility and our credit worldwide. They know it is immoral to be putting this debt on the backs of our children and grandchildren. I believe this health care bill does that exactly. It exacerbates our current fiscal situation.

There are lots of good things out there, a lot of good things we all would like to do. But just like a family, if you cannot afford what you are doing now, how can you afford to take on more responsibility in terms of debt?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I think it is important to focus on the fiscal difficulties we have today, but I think it is also important to recognize the probable causes of these huge deficits: two wars, unfunded, no attempt to fund them, spent simply by running up the deficit; tax cuts, which were unfunded and which did not ultimately generate the kind of sustained economic growth and job growth that their supporters advertised, and then the Medicare Part D program, an entitlement program which was also completely unpaid for.

Today we have people talking about entitlement reform, how that is a key aspect of health reform. But so many of my colleagues on the Republican side supported President Bush when he

proposed the Medicare Part D program, a worthy program in concept, but in the context of not paying for it, it is a concept that is costing us greatly today.

Additionally, it is particularly ironic at this moment, because we are considering a McCain motion that would report this health care bill back to the committee with the instructions to restore \$400 billion in spending, roughly, over 10 years. I cannot think of anything more contrary to the notion of entitlement reform.

What we have tried to do in this bill is to restructure Medicare so that it will continue providing quality health care, but also recognize the high costs we are facing going forward and the general economic climate we face today. Again, let me remind you, in January 2001, the unemployment rate was about 4.6 percent. When President Obama took office, it was double that and growing and continuing to grow.

We have seen some effects to limit this growth, but it is still a critical issue. Again, this reform package is designed not only to deal with the quality of health care, accessibility to health care, and affordability of health care, but it is designed to, over the long term, begin to rein in costs that are absolutely out of control.

Those suffering the most from this course are the American people and, in some respects, small business men and women. Their health care costs are going up faster than any other costs, and in many instances faster than wages, and it is unsustainable.

If in my State of Rhode Island we do not take effective action, we will see within several years premiums reaching \$24,000 to \$30,000 a year for a family of four. We cannot sustain that.

If someone is interested in taking the very difficult step of entitlement reform, they would reject the McCain motion. But there are other reasons to reject the amendment, as well. First, the funding that has been eliminated from the current health care system and the system going forward, has been eliminated because it does not improve care. This is particularly true in Medicare Advantage.

This was a program that was developed and sold essentially to the American people as cost containment for Medicare. This was one of the proposals that would rein in out-of-control health care costs by giving insurance companies the ability to manage more effectively.

Of course, what we have seen is a significant increase in payments to Medicare Advantage payments over traditional Medicare. Of course, these insurance companies can manage health care very well as long as they are receiving very significant premium payments from beneficiaries. But, those premiums do not essentially go to better health care. It certainly goes, however, to better profits for the insurance companies.

Indeed, with Medicare Advantage there is a rebate given to each insur-

ance company. This is not the case with traditional Medicare. The rebate was designed essentially to provide, again, lower cost access to health care benefits for the consumers of Medicare Advantage.

The GAO found that 19 percent of Medicare Advantage beneficiaries actually pay more than traditional Medicare for home health care and 16 percent pay more for inpatient services. Here is the irony. We are paying the insurance companies more, but the beneficiaries of Medicare Advantage are, indeed, also paying more. So there is no cost savings in this regard, in this program at least.

The other point, which is I think critical and I alluded to, is that for the same services you receive in Medicare Advantage, there is, on average, a 14-percent increase overall for those similar services in traditional Medicare.

We have to, I think, take tough steps to eliminate these over-payments, but steps that will enhance the quality of care for seniors, and that is what is being done in this bill. While some of these resources are being used to help redesign a system for all Americans, there will also be significant improvements for seniors, for care that is more effective and efficient, and less costly.

Let me suggest something else. We are all paying right now for the cost of uninsured Americans. It has been estimated that every private insurance plan in this country is paying—every individual payer, businesses or individual—about \$1,000 a year for uncompensated care. That is the cost hospitals shift from their uncompensated care on to the insurance providers, the carriers, and that is translated into higher premiums for all Americans.

Under this legislation, the hospitals will now see patients presenting themselves with an insurance card. Mr. President, over 94 percent of Americans, it has been estimated, will be covered under our proposal. So instead of showing up for free care, they will be under an insurance plan. The hospitals will benefit. Medicare, Medicaid, and the whole health care system will benefit.

Again, this is one of the changes that would be reversed by the McCain motion.

Also, we have taken steps so that hospitals will be much more effective in managing their patient flow. Readmissions will hopefully be reduced by some of the provisions in this legislation.

There are many things we should do and will do, but I believe we can successfully balance expanding our coverage system, protecting quality of care, but also recognizing, as has been suggested, the fiscal implications not just for the moment but going forward. I suggest if someone is serious about entitlement control, serious about the fiscal implications of this legislation or any other legislation, they will not simply order the committee to restore these cuts. They would do something

much more proactive and, indeed, support what I believe are sensible, sound proposals to provide quality, to ensure that over the long run, Medicare is more solvent.

In fact—the final point—the legislation before us would extend the life of Medicare, the solvency of Medicare over at least 5 years. So for those people who say we are trying to end Medicare, their solution is simply to let it go bankrupt apparently in 2017 or to simply ignore it and let it find its own fate.

We can do better. I urge rejection of the McCain motion. I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, I come to the floor also to talk about Medicare and what I see to be significant cuts in the Medicare Program. I practiced medicine in Wyoming for 25 years, taking care of families from across the State and many of these wonderful folks who are on Medicare. They depend on Medicare for their health care. They depend on Medicare. Patients depend on it, the hospitals depend upon it, the physicians, the nursing homes, the home health care agencies—all of them depend on Medicare for their health care.

I listened to my close friends from across the aisle come to the floor as well, and they seem to be trying to convince the American public that the 2,074-page bill which weighs over 20 pounds actually does not cut Medicare. I heard the chairman of the Finance Committee talk about it on the floor; I have heard it from the majority leader.

The health care reform plan we are looking at on this floor cuts \$464 billion from Medicare, and I have a list of all the Medicare cuts in this bill, page after page, column after column. When you add them all up, it cuts \$135 billion from our hospitals—from our hospitals—that are providing the care. We have heard about some of the cost shifting from the Senator from Rhode Island. Cost shifting occurs. Medicare is one of the biggest deadbeats when it comes to paying for hospital services, and it is why hospitals end up shifting more costs to people who have health insurance, and why, for those people, their premiums will go up if this bill becomes law. So \$135 billion cut from hospitals.

The bill cuts \$120 billion from a program called Medicare Advantage. There are 11 million Americans in this country who are on Medicare Advantage. They know who they are. They know it is a program that has worked well for them. People ask me what the difference is. Why would somebody want to be on a program called Medicare Advantage? Well, there is an advantage to those seniors who depend upon Medicare for their health care if they are on Medicare Advantage. The No. 1 advantage is, it actually helps coordinate care.

We know one of the best ways to help people keep down the cost of their medical care is to find problems early and to get early treatment. So find the problem and treat it before it gets too bad. Well, Medicare Advantage does both preventive care as well as coordinated care. One of the big problems with Medicare is, it will pay a lot for doing something to someone, but it will not pay much for helping someone stay healthy. But now all of a sudden we are going to cut \$120 billion from Medicare Advantage, which actually works on prevention and on coordinated care.

Then there is \$42 billion from home health care agencies that will be cut. Those are the folks who come into someone's home and help them stay out of the hospital. The advantage of home health care is to allow people to get care at home and not need to be in the hospital, but suddenly we are looking at \$42 billion in cuts on Medicare for home health care agencies.

Then let's take a look at nursing homes: \$15 billion in cuts for nursing homes—those facilities taking care of people on Medicare—which, to me, means they are actually cutting it from the people who depend on Medicare for their nursing home needs.

As an orthopedic surgeon, I have taken care of many people, such as a grandmother who breaks her hip. She doesn't need to go into a nursing home permanently, but what she needs to do is to go there for a short period of time for rehabilitation, where she can get better and get stronger. She is not ready to go home, and she does not need to stay in a hospital, but she needs to be in a nursing home for a period of time to get rehabilitated and then to get ready to go home and go back to an independent life. There is a gap in time, and nursing homes help with that. They are wonderful as a way to give somebody an opportunity to gain their strength. In our country, such as it is now, so many grandparents are living in communities where, perhaps, their children or grandchildren are no longer living or they can't go and live with a son or daughter, but they need additional help and so they go to a nursing home.

So for that patient who has broken a hip—the type of patient I have taken care of in the hospital—this bill is going to end up cutting from the hospital \$135 billion from Medicare for that patient. It will end up cutting nursing homes by \$15 billion, for patients who rely on nursing homes as they recover from their hip surgery. Then once they get home and get ready for an independent life, a lot of times they can benefit from home health care—someone coming into the home and checking on them, giving them medications, making sure they are doing all right, checking their wound, and a number of different things—this bill will cut \$42 billion from home health care agencies; again, cutting the services to people who depend upon

those services for their health care needs.

Then there is an \$8 billion cut from hospice providers, people who take care of our patients—my patients—in the final stages of their life. At a time in their life when their body may be riddled with cancer or they just need a place to go and be treated with respect and to be cared for, we are cutting \$8 billion in this bill from the hospice providers—people who are there and helping people in the final stages of their life.

When I look at this, I say: How in the world can my colleagues on the other side say they are not cutting Medicare for our seniors? I read through the bill and there is \$135 billion from hospitals, \$120 billion from Medicare Advantage, \$40 billion from home health care agencies, almost \$15 billion from nursing homes, and \$8 billion from hospice providers, for a total of \$464 billion for this country's seniors. I don't think we should pass this bill. Of course, there is another \$500 billion in taxes. It is a huge and hugely expensive bill.

To me, this is absolutely nothing but robbing our folks who are on Medicare to start a whole new government program. I am worried seniors all around the country are going to have less access to doctors, especially in rural and in frontier States, such as Wyoming. I am concerned they are going to see community hospitals and home health care agencies and nursing homes—skilled nursing facilities—struggling to keep their doors open.

It is time for this Congress, for this Senate to listen to America's seniors. Let's listen to the administration's own chief actuary. Richard Foster, the chief actuary for the Centers for Medicare and Medicaid Services, said if these Medicare cuts take effect, then many providers “could find it difficult to remain profitable and might end their participation in the program.” They may say: I don't want anything else to do with Medicare. I am closing my doors to Medicare patients.

We cannot have that in this country, but I believe that is what this bill does. Even the nonpartisan Congressional Budget Office said these Medicare cuts could “reduce access to care or diminish the quality of care.” Is that what this Senate wants, to reduce access to care or diminish the quality of care?

How many experts does it take to convince the majority party that cutting Medicare to pay for a brandnew government program is irresponsible? We all agree Medicare is going broke. The trust fund will run out of money in the year 2017. It has more than \$37 trillion in unfunded liabilities. The Presiding Officer knows that in his State, as well as in mine, Medicare's physician payment formula, which calls for doctors to face a more than 40-percent cut over the next 10 years, is a system that is broken. The Reid bill does nothing to fix this problem. Instead, it takes \$½ trillion from Medicare to create a brandnew entitlement program.

It punishes a group of people in order to benefit another. To me, that is not reform. It will only make the system worse.

That is why I support the motion we will be voting on today, the McCain motion. It says we are not going to finance a new government program on the backs of our Medicare patients, on the people who depend upon Medicare for their health care. It instructs the Finance Committee to write a bill that doesn't cut hospitals, that doesn't cut home health care, that doesn't cut Medicare Advantage, and that doesn't cut hospice for our seniors who depend upon those services. A vote for the McCain motion gives us a chance to get this right.

I do want health care reform. I just don't want this bill. This is the wrong prescription for our country. I don't believe we have to take the money out of Medicare and then spend it on a brandnew entitlement program. I go home to Wyoming every weekend—and I know other Members go home and listen to their constituents—and what I hear from the people in Wyoming is: Don't cut my Medicare. Don't raise my taxes. Don't make things worse for me in this economy. I certainly can't afford it. The people of Wyoming want practical, commonsense health care reform; reform that drives down the cost of medical care, improves access to providers and creates more choices.

It is clear this bill has a very different plan in mind. It is not too late to work together for meaningful reform. We do not have to dismantle the current health care system and build it up in the image of big government and then try to say this is reform. The American people are telling us what kind of changes they want, and that is why I will be voting for the McCain motion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I wonder if the Senator from Wyoming would be available to answer a question.

Mr. BARRASSO. I will, Mr. President.

Mr. BAUCUS. I am thankful to my good friend and neighbor to my State.

Is it true the CBO letters say the Senate bill will extend the life—extend the solvency of the Medicare trust fund? Is that true?

Mr. BARRASSO. I don't have that letter with me, but everything I look at says this will gut Medicare, make it go broke sooner, and it will be bad for seniors.

Mr. BAUCUS. I don't have the letter in front of me, but in all deference and respect to my good friend from Wyoming, the CBO says the exact opposite. It is the conclusion of the Congressional Budget Office that this legislation will help seniors by extending the solvency of the Medicare trust fund by, I guess, 4 to 5 years. That is black and white. If I had the letter in front of me, I could read it to him, but that is a

fact. This legislation will extend the solvency of the Medicare trust fund by another 5 years.

So instead of being insolvent in the year 2017, under this legislation, that is extended to the year 2022. That is a fact. At least the fact is that is what CBO concludes in their letter. That is a fact.

Second, as a caring physician, does the Senator think that we as a country should try to find a way to provide health insurance for so many Americans—some of them lower income—who don't have health insurance in our country? Because, after all, we are the only industrialized country in the world that doesn't find a way to make sure its citizens have health insurance.

As a physician who sees patients, many of whom can't pay their bills and defer medical treatment because they do not have health insurance, I am wondering if the Senator believes this country should try to find a way where its citizens have health insurance.

Mr. BARRASSO. The Senator absolutely believes we need to find a way to make sure all the citizens of this country have insurance, and there are ways to do it: allowing people to buy insurance across State lines. That doesn't take a 2,000-page bill. There are ways to do it to help get down the cost of care that give individuals incentives to buy their own insurance, giving tax breaks to those individuals. We could do things with tort reform, such as the loser pays rule. We could allow small groups to join together to have a better ability to bargain and get the cost of insurance down.

So this Senator absolutely believes we need to find a way to get everyone insured. There are people who need help who don't have help, and we need to find a way to do that, but it is not this 2,000-page bill.

Mr. BAUCUS. I will ask this question, and then I will finish because I know my colleagues want to speak.

One of the basic underpinnings of this legislation is that we should change the way we reimburse providers, moving away from quantity and volume and more toward quality. I am curious—and this is not an antagonistic question. I am just trying to get a physician's point of view because so many doctors I talk to think that although it creates a little uncertainty, probably that is the right thing to do—to move our reimbursing based on quality, coordinated care, and focusing on the patient rather than our current system, which reimburses more on quantity and the number of services provided, et cetera.

Is that something the Senator thinks we should pursue in this country?

Mr. BARRASSO. The current system is broken, Mr. President. The reimbursement system focuses more on doing things than on helping patients stay healthy and get better. Medicare has done a terrible job of that over the years, in terms of giving incentives for people or even for paying for preven-

tive services. They have not done that over the years.

This is an illustration of how the system is broken. It is now December—the end of the year—and it is the busiest time of year for me as a physician in Wyoming because people have met their deductibles—those who have insurance have met their deductibles for the year—and they come into the office and say: Is it now time for my operation? I have to get it done before the 1st of the year because my deductible has been used up, and I want to have my operation so I am not going to have to pay for it.

In this country, we have the incentives all wrong in terms of health care. We do need health care reform.

Mr. BAUCUS. I agree.

Mr. BARRASSO. I don't think this bill is the way to do it, which is a government takeover of the health care system.

Mr. BAUCUS. Mr. President, I have to address that one. My colleagues want to speak, but I think it is worth repeating over and over again: This legislation is designed to retain the uniquely American solution to health care—roughly half public, half private. It is designed to make sure patients can still, as they should, choose their own doctor, any doctor they want—primary care doc, specialist, no gatekeepers and all that stuff. The doctors are totally free and should be free to make their own decisions, after consultation with their patients, as to what procedure makes sense or doesn't make sense.

In addition to that, frankly, more competition with the exchanges. This legislation, frankly, is rooted almost entirely on maintaining the current free market system in health care. There is some insurance market reform, which I think everybody agrees with, which is denying preexisting conditions as a basis for denying coverage, and there is a modest expansion of Medicaid for lower income people who just can't get health care, but otherwise this is legislation which is rooted in the current American system.

We have a good system. It works. This is just designed to make it work a little better by making sure it reimburses, as the Senator from Wyoming wants, based more on quality. He didn't mention this, but I know he agrees, also insurance market reform so those patients who come to him don't have to wait until the end of the year in the future as they have in the past.

But I want to get it very clear, this is no "government takeover." That is a scare tactic. It is not accurate. It is basically maintaining our current system.

I would now like to yield 10 minutes to my good friend from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. SANDERS. I am going to speak on something other than health care. I thank my friend from Montana for yielding.

CONFIRMATION OF FEDERAL RESERVE CHAIRMAN

Mr. SANDERS. Mr. President, what I want to touch upon is my strong belief that Ben Bernanke should not be reappointed for a second term as Chairman of the Federal Reserve. In that regard, I placed a hold on his nomination.

Everyone in this country understands we are in the midst of the worst economic crisis since the Great Depression. We are looking at 17 percent of our people being either unemployed or underemployed. We are looking at average length of unemployment being longer than it has been since World War II. We are looking at a situation where, over the last 8 or 9 years, median household income has declined by over \$2,000. We are looking at a situation where, according to USA Today, September 18, 2009:

The incomes of the young and middle aged, especially men, have fallen off a cliff since 2000, leaving many age groups poorer than they were even in the 1970's.

What we are seeing is a long-term trend resulting in the collapse of the middle class, an increase in poverty, a growing gap between the rich and everybody else. Then, to make a very bad situation worse, as a result of the greed, irresponsibility, and illegal behavior of Wall Street, we are now in a terrible economic decline.

The American people voted overwhelmingly last year for a change in our national policies and for a new direction in the economy. After 8 long years of trickle-down economics that benefited the very wealthy at the expense of the middle class and working families, the people of our country demanded a change that would put the interests of ordinary people ahead of the greed of Wall Street and the wealthy few. What the American people did not bargain for was another 4 years for one of the key architects of the Bush economy, Federal Reserve Chairman Ben Bernanke.

The Chairman of the Federal Reserve—and the Federal Reserve itself—has four main responsibilities. I want the American people to determine whether they believe the Fed has, in fact, succeeded in fulfilling these obligations. Here they are, four main responsibilities:

No. 1, to conduct monetary policy in a way that leads to maximum employment and stable prices. Maximum employment? When you have 17 percent of your people unemployed or underemployed, I do not think the Fed or all of us, any of us, have succeeded in that area.

No. 2, to maintain the safety and soundness of financial institutions. Obviously, that has not been the case either.

No. 3, to contain systemic risk in financial markets.

No. 4, to protect consumers against deceptive and unfair financial products.

Not since the Great Depression has the financial system been as unsafe,

unsound, and unstable as it has been during Mr. Bernanke's tenure. More than 120 banks have failed since he has been Chairman, and the list of troubled banks has grown from 50 to over 416.

Mr. Bernanke has failed to prevent banks from issuing deceptive and unfair financial products to consumers. Under his leadership, mortgage lenders were allowed to issue predatory loans that they knew consumers would be unable to repay. This risky practice was allowed to continue long after the FBI warned, in 2004, of an epidemic in mortgage fraud.

Here is what the bottom line is. The bottom line is that the key responsibility of the Fed is to maintain the safety and soundness of our financial institutions, and they failed. They failed. As a result of the greed and speculation on Wall Street—which the Fed should have been observing, which the Fed should have acted against, which the Fed should have warned the American people and the Congress about—they did nothing and our financial system went over the edge.

Then, after not doing their jobs as a watchdog, not fulfilling their obligation to protect the safety and soundness of our financial system, the financial collapse occurred, and what happened? What the Fed did is provide not only—not only did Congress put \$700-plus billion into the bailout, the Fed provided several trillion dollars of zero-interest loans to large financial institutions. When I asked Chairman Bernanke which financial institutions received these zero-interest loans, the answer was: I am not going to tell you. Not going to tell you.

The reason Congress, against my vote, bailed out Wall Street is they were too big to fail. Large financial institutions were too big to fail. Since the collapse, three out of the four largest financial institutions have become even larger. So the systemic danger for our economy is even greater today than it was before the bailout.

The American people want a new Wall Street. They want a Wall Street which begins to respond to the needs of small business, so we can begin to create jobs, not just to Wall Street's outrageous executive compensation.

Let me suggest some of the things I think a Fed Chairman should be doing, things Mr. Bernanke is not.

No. 1, today, bailed out financial institutions are charging consumers 25 or 30 percent interest rates on their credit cards. The Fed has the power to stop that, to put a cap on interest rates. That is what they should be doing.

The Fed has the power to demand that bailed-out institutions provide loans at low interest rates to small and medium-sized businesses so we can begin to create the kinds of jobs that are desperately needed in this country. That is not what Mr. Bernanke has done.

The Fed has the power now to do what is taking place in the United Kingdom, something that many econo-

mists are demanding, and that is to start breaking up these large financial institutions which are too big to fail. In my view, if an institution is too big to fail, it is too big to exist. We have to start breaking them up, not allow them to get even larger. The Fed has chosen not to do that.

We need transparency at the Fed. I am the author of a GAO audit of the Fed, which now has 30 cosponsors, which I hope we will pass. But at the very least, if the taxpayers of this country are putting at risk trillions of dollars being lent out to large financial institutions, we have a right to know which institutions are receiving that money and under what terms.

Let me conclude by saying this: This country is in the midst of a horrendous economic crisis. Millions of families all over this country are at their wit's end. They are suffering. They are trying to figure out how they are going to keep warm this winter, how they are going to pay their bills. The time is now for a new Fed, for a new direction on Wall Street, for a Wall Street which is helping our productive economy create decent-paying jobs, not a Wall Street based on greed, only for themselves, whose goal in life is to make as much money as possible for their CEOs.

We need a new Fed, we need a new Wall Street, and we surely need a new Chairman of the Fed. My hope is that President Obama will give us a new nominee and not Mr. Bernanke.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask how much time is remaining on each side?

The PRESIDING OFFICER. On the majority side, 9 minutes 20 seconds; on the minority side, 23 minutes 10 seconds.

Mr. BAUCUS. Mr. President, I yield 9 minutes—how many seconds?

The PRESIDING OFFICER. Now 9 minutes 11 seconds.

Mr. BAUCUS. I yield 9 minutes 11 seconds to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. I am deeply saddened that my Republican colleagues have, now we see very clearly, resorted to fear tactics in their desperate attempt to preserve a dysfunctional, costly, status quo medical system that we have in this country today. Republicans, in their attempt to strike fear in seniors across the country, are trying to convince the people that they have changed from the party that has always opposed Medicare to now being Medicare's staunchest defenders. But we all know, if it were up to our friends on the other side of the aisle, there would be no Medicare. They fought its very creation. Don't take my word for it, take one of their standard-bearers who ran for President. Senator Bob Dole, who was here when we created Medicare, Senator Dole, a friend of

mine—I have a good deal of admiration for Senator Dole—said, "I was there, fighting the fight, voting against Medicare—one of twelve—because we knew it wouldn't work in 1965." He said that in 1995 when he was running for President. He was proud of the fact that he and Republicans had opposed the establishment of the Medicare system.

You might say: That was then, what about recently? Here is the former Speaker of the House, Newt Gingrich. He said, "We believe it's going to wither on the vine," speaking of Medicare.

Now my friends on the other side of the aisle—listening to them, you would think they were the biggest supporters of Medicare forever, when they opposed it from its very beginning.

Now we hear all the stuff about Medicare Advantage. If, in fact, we are going to be cutting a little bit out of Medicare Advantage, they would like to tell you that somehow this is going to ruin Medicare. If that were true, why would the National Committee to Preserve Social Security and Medicare, AARP, the alliance for retired Americans, groups that represent tens of millions of seniors—why would they stand with us in support of our bill and not with the Republicans, who want to gut the very provisions we have in there that will strengthen and preserve Medicare?

Do people really believe our Republican colleagues care more about seniors than these groups that actually represent seniors?

The truth is, when we talk about Medicare Advantage, we are talking about private insurance companies who promised that through competition they were going to deliver better quality health care to seniors at a lower cost. It all sounded good. But what has happened since Medicare Advantage has come in? The reality is, Medicare is now paying on average 14 percent more to these private plans than it would cost to cover the same beneficiaries under traditional Medicare. In some cases, it is as high as 50 percent more. That is \$12 billion a year more than if these beneficiaries stayed in Medicare. Basically, we are giving a \$12 billion subsidy to these companies.

Again, don't take my word for it. This is from a June 2009 MedPAC report:

We estimate that in 2009, Medicare paid about \$12 billion more for enrollees of [Medicare Advantage] plans than it would if they were in [fee-for-service] Medicare.

A \$12 billion slush fund. We are saying we are going to reduce some of those subsidies. I hear my friends on the other side: My gosh, Medicare is going to take away all these benefits, and all that other kind of stuff. Not necessarily. Right now we know, according to CBO, our bill will lower seniors' Medicare premiums by \$30 billion over 10 years.

Then the other side says: But if you cut these Medicare Advantage payments, you will see their benefits cut.



That is absolutely not true. All Medicare plans, whether traditional Medicare or private, must offer all required Medicare benefits. Here is the kicker. If, in fact, there are some cuts made in Medicare Advantage, then these private companies that are making \$12 billion in their slush fund, maybe rather than cutting benefits, maybe they will decide to cut their CEO salaries from \$12 million a year to \$10 million a year. Maybe they will decide instead of three or four corporate jets, they only need one. Maybe they will start reducing some of the profits they are making, huge profits they are making off of the taxpayers and off of Medicare payees right now.

Again, if we cut the Medicare Advantage Program, I guess my friends on the other side would say, No. 1, they can continue to pay their CEOs \$12 million a year salaries. They can continue the corporate jets. They can continue to have fancy buildings. They can continue to have outrageous profits. But they will have to cut Medicare. That is what the other side is saying.

We are saying: No, cut the CEO salaries. Cut the enormous profits. Cut those corporate jets. Cut all of that stuff you are using the slush fund for, but keep the benefits for Medicare.

As I said, under present law they cannot cut the basic Medicare benefits. No senior anywhere in America will lose their core Medicare benefits under our bill. Let's be clear about that. If they did, AARP, the National Committee to Preserve Social Security and Medicare, and the National Alliance for Retired Americans would never be supporting our bill.

Lastly, according to an economic survey done at Boston University, they extensively analyzed Medicare Advantage payments and found that just 14 percent of the additional funds these private plans have received have gone to benefit Medicare enrollees. The vast majority of the payments, 86 percent, go to profits, CEO salaries, corporate jets, all these other things, or some of it may go to things such as gym memberships, spa memberships. I raised the point the other day. Why should my Medicare beneficiaries in Iowa have to pay more in Medicare so that a Medicare beneficiary, say, in Arizona can go to a spa and have it paid for by Medicare Advantage, paid for by the subsidies of \$12 billion that we give them that come both from taxpayers and from Medicare recipients right now? I don't think it is fair for my seniors in Iowa to have to pay for that.

A lot has been said about all the people who are in the Medicare Advantage plans. I looked up the figures. Right now, nationally, only 18.6 percent of all enrollees are in Medicare Advantage, a little less than one out of five. In my State, in Iowa, it is 10 percent, 1 out of every 10. Why is that? We don't have a lot of spas in Iowa. We don't have those fancy things like they have in Florida and Texas and Arizona and California, wherever else all this stuff is going.

What my seniors need is the peace of mind of knowing that Medicare is going to be there for them in the future. They need to know they are going to get the benefits we have put in this plan that are in our bill and that will help Medicare beneficiaries.

Here is what they are. AARP says:

The new Senate bill makes improvements in the Medicare program by creating a new annual wellness benefit, providing preventive benefits and, most notably for AARP members, reducing drug costs for seniors who fall into the dreaded Medicare doughnut hole.

The bill also makes improvements on age rating, a discriminatory practice that allows insurers to charge exorbitant age-based premiums to older Americans.

Finally, AARP strongly supports provisions in the Senate bill to strengthen long-term services and supports. We also applaud inclusion of provisions to improve access to Medicaid home and community-based services.

All is in our bill, all of which would fall if we adopt the McCain amendment. I urge colleagues not to listen to the rhetoric from the other side. Listen to those who really do represent seniors. Make sure we preserve and protect the basic Medicare functions for seniors and for those who are about to retire. You will not get that through Medicare Advantage. If Medicare Advantage wants to exist and compete on a level playing field, God bless them. Go ahead and get it done. That is what we were promised when Medicare Advantage came through here. I remember. Competition. But what we found is, we had to cough up an additional \$12 billion to subsidize them.

It is time for us again to say no to the fearmongers, to those who are trying to strike fear in seniors. It is time to stand up, support the Bennet amendment, which makes very clear that any savings that come from Medicare has to go back into Medicare. That is the way it ought to be. That is what is in this bill. The Bennet amendment makes that crystal clear. The McCain motion does away, basically, with all of the protections, all of the things we have worked so hard for since 1965 to provide. The McCain motion, when you strip away all the verbiage, really what it does is, it basically takes us back to pre-1965 when we didn't even have Medicare. That is the kind of intent behind it.

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

Mr. HARKIN. I am glad to yield.

Mr. BROWN. I thank the Senator for his incredible leadership on this issue and the public option, affordability, and on prevention and wellness.

I have listened to the debate with Senator MCCAIN and others on Medicare. It seems what they are protecting is not Medicare but the huge insurance company subsidies when President Bush moved to privatize Medicare. It used to be the insurance companies told us they could do their part of Medicare, one-fifth, one-sixth of Medicare; that they could do it more effi-

ciently even though insurance companies have a 15-, 20-percent administrative cost overhead and Medicare's is 3 or 4 percent or 2 percent.

The PRESIDING OFFICER. The Chair reminds the Senator, the majority time has expired.

Mr. BROWN. I ask unanimous consent for 2 additional minutes.

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

Mr. BROWN. Much of what they are trying to protect is insurance company subsidies, not Medicare benefits which their party has opposed for much of the last 40 years, including its creation.

Mr. HARKIN. As I said earlier, what they are talking about in preserving these benefits and this subsidy for Medicare Advantage is the big CEO compensation packages, the corporate jets, the fancy buildings, the high profits, somewhere between 30 percent and 200 percent profits made by these companies that are providing Medicare Advantage. That is what the Republicans are trying to protect, not the Medicare recipients.

Mr. BROWN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I listened with some interest to the comments made when I came on the Senate floor. I simply want to make this one observation about Medicare Advantage. President Obama promised that Americans who have coverage they like would not lose the coverage they have. There are a number of Americans who have Medicare Advantage. They like it, and they want to keep it. This Congress is about to say: No, you can't. This Congress, through this bill, if it passes, is going to eliminate Medicare Advantage. Frankly, the people who go after Medicare Advantage because they like it are going to be the ones who are disadvantaged. They are going to be the ones who will see President Obama's pledge violated.

Frankly, I don't think they much care about how much an executive is paid or what happens in the company. They care that they have coverage they like, coverage they are paying for, coverage they have chosen, and they are being told by the Federal Government they cannot have what they want.

There is another aspect to this that I would like to explore in the time I have. We keep hearing so much about the CBO and all of the scores the CBO is pointing out along with rhetoric that says we can't afford to wait, we need a solution now, the status quo is unacceptable. I would like to point out that the status will remain quo for 4 years if this bill passes. In the budget smoke and mirrors that have been put into this bill in order to make it look as if it costs less money, they make the effective date in 2014, so there will be 4 years after the passage of this bill where Americans will not see any kind of change in their plans. What they

will see is an increase in their premiums. They will see an increase in taxes.

Why do I say that? Between January of 2010 and January of 2014 there will be four open seasons in which plans can be changed. As the taxes start to hit, as the costs start to hit, those companies that are involved in offering these plans will say: OK, we have to get ready for the expenditures. What do we do? We have four open seasons in which to change our plans before this thing hits.

Obviously, that cannot be scored by CBO because CBO does not know what changes will be made. But do we really think we can go through four open seasons with no change whatsoever in the face of this enormous change that will hit in January of 2014? Do we really think everything is going to remain static? That is what the CBO computers are. Do we really think the \$500 billion they want to take out of Medicare to help pay for this will not be hashed over again and again?

One of two things will happen. No. 1, the Democrats will blink in the face of the anger of senior citizens and say: We really didn't mean it. Yes, the bill cuts Medicare by \$500 billion, but we really didn't mean it. We have 4 years in which to fix it; that is, 4 years in which to replace that \$500 billion. Of course, when that \$500 billion is replaced, if that is the way they decide to go, then we will know that the numbers we are getting out of CBO are completely phony. Then we will know the statement that this bill is revenue neutral is a nonstarter. Then we will know there was never any intention to try to deal with this cost.

Suppose future Congresses stand firm and say: Yes, we are going to stand firm in this 4-year period. We are going to stand firm against the anger of senior citizens who are seeing their Medicare benefits get cut. We are going to take the \$500 billion out of Medicare. Then we will see the promises that are being made around here—that there will be no cut in Medicare services—all disappear.

I hear people say: We are not cutting benefits. We are just cutting payments to providers. That statement is being made over and over again on the other side of the aisle: We are not cutting benefits. We are going to take that \$500 billion away from the providers, but the benefits will remain the same.

In my State, I have plenty of providers that are on the edge, right now, financially. They are on the edge of going out of business, right now, financially because of the cuts that have been made in Medicare in the name of cutting down payments to providers.

What happens to the people who are in a nursing home that is currently dependent upon Medicare payments in order to survive if they come in and say: All right, we are not going to do anything to the benefits these people are entitled to in this nursing home, we are just going to cut enough pay-

ments to the nursing home that the nursing home goes out of business. What happens to the people who are in the nursing home under that circumstance? Well, they are going to have to go someplace else and there is going to have to be money to pay for them to go someplace else and the money is going to have to flow through Medicare someplace else and then we are back to the first option I talked about, which is we were not serious when we said we were going to take \$500 billion out of Medicare. We were not serious. In order to make sure you do not lose your benefits, we are going to have to start reinvesting in some of these providers. We have seen providers go out of business because of the cuts into Medicare. We need to start putting that money back into Medicare. Then we are back into the circumstance we have been talking about all along: This thing is not paid for.

One final point I wish to make: We had a hearing today with the Chairman of the Federal Reserve. Ben Bernanke is up for reappointment and, of course, the entire conversation was about the economy and what is the future of the economy. There were a number of people who had a conversation about the past, but I wished to focus on the future.

I pointed this out to the Chairman and asked for his comments with respect to the future of our economy. Most of my constituents do not understand what I am about to say. Frankly, most of the people in the press do not understand it, and maybe even some Members of this body do not understand it. When we talk about the Federal budget, two-thirds of the Federal budget is beyond the control of this Congress. Two-thirds of the Federal budget is on autopilot, unless this Congress changes entitlements.

Somebody says: Well, what does this word "entitlement" mean? Why do you talk about entitlements? Entitlement means, by law, these individuals are entitled to this money, whether we have it or not. The Federal Government has made a contract with them. All right, it is a social contract rather than a legal contract, but it is as binding politically where the Federal Government has to spend the money, whether it has it or not.

Indeed, that is what we have seen in fiscal year 2010. The budget we passed said revenues are going to be \$2.2 trillion and entitlement spending is going to be \$2.2 trillion, which means every function of the government—our Embassies overseas; our troops, wherever they may be; education; national parks; whatever it is—every dime will have to be borrowed in fiscal year 2010, every single dime because every penny coming into the Federal Government is already programmed to go out, without coming through the Congress. It does not go through the appropriations process. We do not get to vote on it. People are entitled to receive this money, and it is going to go out there.

What are we talking about? We are talking about creating a new entitlement, a very expensive new entitlement. How are we going to pay for it? According to this bill, we are going to pay for it by transferring money from an existing entitlement. Anyone who thinks that is what is going to happen, in the face of the anger that is being generated by people who read about this, believes a fairytale.

The whole notion of trying to balance the cost of this tremendous new entitlement by somehow a book-keeping entry that says we will take it out of the Medicare account and we will put it in this account, and the computers that do not think—the computers simply compute—will say: Well, then, if you put it in this account, then this account is revenue neutral. But the government's account is not revenue neutral. This thing is going to cost \$500 billion, wherever we get the money. It is a cynical ploy, smoke and mirrors of the worst kind, in a budgetary bait and switch, to say we are going to take this out of Medicare.

I hear from my constituents—I hear from people who are not my constituents who recognize me as a Senator in airports and other places—as they say, increasingly: Do not pass this bill. We see it in the polls, but we see it in the passion of the people who come up to us and let us know how firmly they are opposed to this bill. The American people do not want it, and the American people are right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I would like to also make a statement related to the amendment that is being presented by the Senator from Colorado. Speaking for several Members on my side—hopefully, for all the Members on my side—we are very concerned, as I think we have all made clear by now, that the Medicare savings in this bill are being used not for preserving Medicare but, instead, are being used to finance the creation of a new Federal entitlement program.

My understanding of the purpose of the amendment of the Senator from Colorado is to indicate that Medicare savings will be used for extending the solvency of Medicare and the trust fund, reducing Medicare premiums and other cost sharing for beneficiaries, and to improve or expand Medicare benefits and access to providers.

Nobody can argue with that purpose the Senator has expressed or his amendment expresses. But the concern on our side that we have with this amendment is it does not require that the savings from Medicare would only—with emphasis upon the word "only"—be used for that purpose.

As the Congressional Budget Office has made clear, the cuts in Medicare in this bill are not being used solely for Medicare, as the Senator's amendment suggests, but, instead, are being used

mostly to fund the creation of an entirely new and separate subsidy program. For the Senator to accomplish what he intends to accomplish would require entirely different language to ensure that savings from Medicare in this bill would only be used to protect Medicare benefits for seniors, as the law now expresses.

The right approach would include language making sure seniors have the same access as they have today, to home health services, skilled nursing facilities and services, hospice care, hospital services, preventive benefits, and the benefits provided in the Medicare Advantage Program. So the Senate, it seems to me, should also ensure that Medicare savings in this bill are not being siphoned off to finance a new and separate entitlement program.

It is very clear to me—and I hope we are able to make it clear to people, all 100 Senators—that the Bennet amendment, as written, does not protect Medicare.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I do not think I have any time, but I ask unanimous consent that as to the time I do have after 2 o'clock, I can take 2 minutes of that so I can ask a question of my good friend from Iowa.

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

Mr. BAUCUS. Mr. President, I might ask my friend from Iowa, Senator GRASSLEY, a question, if he is available for a question. I am taking time.

Mr. GRASSLEY. Mr. President, I will take a short minute to respond to a question. But our side has 7—

Mr. BAUCUS. I understand. I do not want to cut into that time at all.

Mr. GRASSLEY. Could we discuss this maybe a little bit later, what you brought up?

Mr. BAUCUS. I am taking it off my time, not your time.

Mr. GRASSLEY. OK.

Mr. BAUCUS. Is it true the Congressional Budget Office said this bill, over 10 years, is not only deficit neutral but actually decreases the budget deficit by about \$130 billion? Is that true? Is that what the Congressional Budget Office said?

Mr. GRASSLEY. That is true. But I do not think the Senator wants to go down that road because, do not forget, there are 6 years of programs, of expenditures, and there is 10 years of revenue coming in. If you want to play that game, you can pay down the entire national debt.

Mr. BAUCUS. Well, I do not know—to be totally fair and respectful to one of my very best friends in the Senate—to cover that point, isn't it also true the Congressional Budget Office said in the second 10 years this bill will reduce the budget by one-quarter percent of GDP? Isn't that also true, according to the Congressional Budget Office?

Mr. GRASSLEY. I cannot respond to that because I do not know that for

sure. So I do not want to respond. But if you tell me, I tend to believe everything you tell me.

Mr. BAUCUS. We trust each other. We both trust each other. That is what the letter says.

Thank you.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I ask unanimous consent that my colleagues and I—the Senator from Tennessee, Mr. ALEXANDER; the Senator from Oklahoma, Mr. COBURN; Senator LEMIEUX from Florida; Senator ENZI; and Senator CRAPO—be allowed to engage in a colloquy.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, how much time do we have?

The PRESIDING OFFICER. The minority has 3 minutes 42 seconds; and then, on top of that, at 2 o'clock, the Senator from Arizona controls 17½ minutes.

Mr. MCCAIN. Thank you. I will let those minutes run together, if there is no objection.

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

Mr. MCCAIN. Mr. President, I wish to begin our conversation with a brief comment about the American Association of Retired Persons, known as the AARP, that has now come out against this amendment, incredibly.

It is a fascinating history of that liberal Democratic group because, in 1993, when we had some savings in Medicare, the AARP said:

If we're talking about Medicare cuts alone as a way of financing health reform, we would fight that with all our strength—we've gone as far as we can go down that road.

The AARP, on \$6.4 billion Medicare cuts in 2005, said: "Strongly Opposes." They said the:

... conference agreement ... undermines the critical protections built into both the Medicaid and Medicare programs. Instead of ... shared sacrifice to achieve budgetary savings. ...

Every time there has ever been a savings in Medicare or Social Security in any way, shape, or form, the AARP has come out against it, except now when there is the most massive cut in Medicare in history and a transfer of those funds to a vast new \$2.5 trillion entitlement program. It was described as \$2.5 trillion just yesterday by the chairman of the Finance Committee.

I say shame on the AARP. I say to my friends, especially those who are under the Medicare Advantage Program, the 330,000 in my State, for whom, admittedly, they are going to cut their Medicare Advantage benefits, take your AARP card, cut it in half, and send it back. They have betrayed you.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, the chart behind me shows the cuts in Medicare that are in this bill. We have

heard all sorts of arguments. I have a few rhetorical questions for my colleagues and my friend, the President of the United States.

There is no question Medicare Advantage costs too much. I have agreed to that with the chairman of the Finance Committee. But you cannot say that coordinated care does not improve the care of seniors, and that is going to be cut. You cannot say that eyeglasses and hearing aids are not going to be cut, and they do improve the care. You cannot say to seniors who cannot afford a supplemental policy, who have Medicare Advantage, they are not going to lose some of their care. They are. In fact, 2.6 million, according to the Congressional Budget Office, are going to lose that very care—not some of it, all of it. They are going to lose that advantage under this legislation. The answer to the question, will this impact seniors care, is yes. We have heard these cuts aren't going to impact anybody or the only people they are going to impact are the insurance companies. Well, I am all for impacting the insurance companies, but I don't want to impact patients negatively.

So we have cuts to Medicare, including hospitals, of \$134.7 billion; hospices, \$7.7 billion; nursing homes, \$14.6 billion; Medicare Advantage, \$120 billion; home health agencies, \$42.1 billion; and then you say you are not going to do anything to impact the care of seniors. My colleague from Iowa, whom I love, disputed my statement about the fact that the life expectancy is going to go down under this bill. He has never practiced medicine a day in his life. I know what goes on inside hospitals. When you cut \$130 billion out of the hospitals, the time you are going to wait for me, the time you wait after you push your call button is going to get extended and the complications from that are going to result in decreased quality of care and shortened life expectancies. There is no question about it.

So we can play the game, but the real thing Americans ought to know is almost \$500 billion of spending on Medicare patients today is going to go by the wayside to be spent on a new entitlement, on a brandnew entitlement.

The PRESIDING OFFICER. (Mr. BROWN). The Senator from Idaho is recognized.

Mr. CRAPO. If the Senator from Oklahoma will respond to a question, he is a physician, and he has very well pointed out how the cuts to Medicare Advantage will reduce benefits to senior citizens. The impacts on the hospitals and home health care and the skilled nursing facilities and so forth will be reduced services. I am aware of a June 2008 report from the Medicare Payment Advisory Commission, MedPAC, which said 29 percent of Medicare beneficiaries they surveyed who were looking for a primary care physician had trouble finding one who would treat them. A similar survey in Texas showed that in that State, only

58 percent of the State's doctors would be willing to take a new Medicare patient, and only 38 percent of the primary care doctors accepted new patients.

So my question is, in addition to the reduction of benefits, in addition to the reduction of access to hospitals and skilled nursing facilities and so forth, won't these cuts and the impact on Medicare also represent a lack of ability by Medicare recipients to literally find physician care?

Mr. COBURN. There is no question, to answer my colleague from Idaho, that if it doesn't eliminate the ability, it will deny by delaying the ability. Care delayed is care denied. All you have to do is read all of the tragedies that have gone on in this country for people who have delayed care which has resulted in large complications for that individual.

Mr. ENZI. Mr. President, I wish to raise a point as the accountant around here. You have mentioned some ways to cut Medicare to pay for this. Actually there are only two ways you can pay for a government program. You have to do it through cuts or through taxes. I don't think there is anybody in America who believes you can do \$1 trillion worth of new programs and have them all paid for, unless you steal somewhere. That is what we are doing from Medicare. We say that is not going to affect Medicare. If you eliminate the DSH payments which are part of this, it is going to put some Wyoming hospitals out of business. I can assure you that if those seniors can't go to a hospital in their town, they are going to consider that a benefit cut. They are going to be upset, and they ought to be.

The same with nursing homes. If you cut back on nursing homes, the people who have to move to another town for a nursing home—because all of our towns don't have more than one nursing home—puts quite a burden not only on the patient who isn't going to get to see their family as much, but also on the family who has to travel a long way to see the patient. So I don't think we ought to be paying for the new programs by doing this when Medicare needs an extended life.

I am always fascinated when they explain that this will extend the life of Medicare because, yes, if you cut payments to everybody, that maybe saves money and extends the life of it, if we did that. Is there anybody who thinks we are going to cut the doctors over the next 10 years by \$250 billion? No, we are not going to do that. We never have.

Mr. COBURN. Would the Senator yield for a moment?

Mr. ENZI. Yes.

Mr. COBURN. My one criticism of my colleagues in writing this bill is I think there is money we can save in Medicare. It is called waste, fraud, and abuse. A Harvard professor who studies this says there is at least \$125 billion a year in fraud. We have had several

studies that say it is anywhere from \$100 billion to \$175 billion a year. There is nothing in this bill to eliminate fraud. What we are doing is we are taking care from seniors instead of taking the money from the fraudulent actors in the health care system.

Mr. ALEXANDER. Mr. President, if I may say to the Senator from Arizona, I greatly appreciate his making this amendment, because there is so much said here on the Senate floor that must be hard for many people to follow. But one thing I believe everybody agrees on is there are going to be \$465 billion in cuts to Medicare over the next 10 years, period. Everybody agrees with that. The President of the United States has said we are going to pay for this new health care bill with one-half from Medicare cuts and one-half from taxes. Everyone agrees with that.

What Senator MCCAIN's amendment is saying is two things—and Senator MCCAIN, let me see if I characterize properly your amendment, because it is a very simple amendment, as I read it. It is saying, send it back to the Finance Committee and say, bring the health care bill back without the Medicare cuts, without these cuts to hospitals, cuts to hospices, cuts to nursing homes, cuts to Medicare Advantage, and cuts to home health agencies.

Second, if we are going to take money from grandma's Medicare, let's spend it on grandma. Let's take the savings we find in Medicare and absolutely make sure we spend it on Medicare, which the trustees have said is likely to go broke between 2015 and 2017.

Did I correctly characterize the Senator's amendment?

Mr. MCCAIN. Absolutely.

Mr. ALEXANDER. And does the Senator recall a few years ago when the Republicans suggested saving \$10 billion over 5 years in Medicare, the majority leader said that was immoral, and that other Democratic Senators thought it was awful? If \$10 billion in savings to try to make Medicare stronger is immoral, what is spending nearly \$½ trillion on a new program called?

Mr. LEMIEUX. I wonder if I could ask a question.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. LEMIEUX. I have a question for my colleague from Tennessee. I am new here. This is all new to me. I thought the goal was to reduce health care costs while trying to provide health care for more Americans. We are taking money out of health care for seniors to create a new entitlement program. We are taking money out of nursing homes, home health care, hospitals, and a program called Medicare Advantage that people in my State I know enjoy very much. How does it make sense that we are taking money out of Medicare to start a new health care program?

Mr. ALEXANDER. Well, if I may say—and then I think maybe others

could respond—if you are going to spend \$2.5 trillion a year, you have to get the money from somewhere. What the Democratic health care bill does is get it three places. One is from seniors, one is from taxes, and one is from the grandchildren of seniors; that is, debt. It comes from those three places.

What we heard earlier this week was the Congressional Budget Office saying the total effect of that \$2.5 trillion is that for most Americans, premiums would continue to go up as they already are, and that for people who go into the individual market they will go up even more—they will go up even more—except there will be some subsidies for a little over half of those people, and where is the subsidy money coming from? It is coming from Medicare. So that is the answer to the question.

Mr. LEMIEUX. It would seem to me—and again, I am new to this process—that 100 Senators would vote for Senator MCCAIN's proposal because everyone in this Chamber believes we should strengthen Medicare. Who could be for taking money out of Medicare if we don't need to? These are two separate issues. Shouldn't every Senator in this Chamber say let's send this back to the Finance Committee so those cuts can be restored and we can start over and take a step-by-step approach? That only seems fair to me.

Perhaps my colleague from Oklahoma could comment on that.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. I thank the Chair.

We are in trouble in Medicare in this Nation. Everybody knows it. We have made promises. The unfunded liability on Medicare is \$79 trillion. For us to take \$½ trillion, no matter what the Enron accounting says afterward, the fact is we are going to reduce that; we are going to make that worse. We may not make it worse next year or the year after, but we are going to make it worse. It is going to be worse for seniors, but it is also, as the Senator from Tennessee said, going to be extremely worse for the seniors' kids and grandkids. Not only have we done that, we have raised the taxes in Medicare on a certain group of people and we are going to take that money and not put it in Medicare; we are going to take that money, a Medicare tax, and create a new entitlement.

So the Senator from Florida is absolutely right. If you vote against the McCain motion you are saying you want to cut \$½ trillion out of Medicare and that it will have no effect whatsoever on the care.

I remind the Senator from Florida, there are 1 million people on Medicare Advantage in the State of Florida, 1 million people who are going to lose benefits under this bill. One million people in the State of Florida will lose benefits under this bill.

Mr. ALEXANDER. Mr. President, I would ask the Senator from Oklahoma, who is a physician himself, if one of the

effects of cuts in Medicare is to make it more difficult for people who are on Medicare to see a doctor. It is like giving somebody a bus ticket and not having a bus.

I have been reading in the newspapers, for example, in the Washington Post last month, that the Mayo Clinic, which is often held up as an outstanding example of a clinic that keeps costs under control, has announced it no longer will accept Medicaid patients from Nebraska and Montana, and some Mayo clinic facilities in Arizona and in Florida are beginning to say no more Medicare patients.

Is this what the Senator from Oklahoma thinks could be happening at other hospitals and centers, even very good ones such as the Mayo Clinic where they allegedly keep costs at a reasonable level?

Mr. COBURN. I think that is entirely possible. I don't know that to be factual as of yet. What I do know is we are going to have 44 million baby boomers in the next 12 years jump into Medicare and we are cutting Medicare. We are going to have 44 million baby boomers jump into Medicare. I am one of them. We are going to cut the amount of available funds from Medicare under this bill.

Mr. ENZI. Mr. President, I wish to ask the Senator from Idaho what he thinks will happen with these Medicare cuts as they affect jobs and the economy. That is one of the biggest things on people's minds right now, jobs and the economy. We are concentrating on something here where we are going to maybe make a difference, even though CBO says it won't be much of a difference.

Mr. CRAPO. I thank the Senator from Wyoming for that question, because as we have already reviewed, there will be major cuts in benefits to Medicare, to the Medicare Advantage Program. There are going to be major reductions in access to Medicare, in terms of access at hospitals and skilled nursing homes and facilities and home hospice and other care.

But one of the other things we haven't focused on—and it is kind of interesting that today is the big White House jobs summit—what is going to happen as a result of these Medicare cuts. In addition to the reduction of access and care and benefits to seniors, we are going to lose jobs. I have had in my office here representatives of nursing and home health care facilities from Idaho who have told me that if this bill is adopted, a number of those facilities are simply going to have to go out of business or they are going to have to dramatically reduce the services they provide, meaning that the nurses and the other caregivers who work there will no longer have jobs. That is part of the way our senior citizens will lose access because there will simply be fewer places, fewer physicians, fewer facilities that will take Medicare patients with this kind of an attitude of the Federal Government toward funding of Medicare.

In the end, what do we have? We have a massive expansion of government, \$2.5 trillion for a massive new entitlement program, along with which come these incredible government controls over the economy, as well as the creation of a new government insurance company, funded by \$½ trillion, almost, of Medicare cuts, \$½ trillion in taxes, and a massive debt, an unfunded mandate pushed on to the States.

That is one of the reasons why I think the Senator from Arizona was so wise in bringing this motion as the first step in focusing on one of the first fixes that needs to be made to this bill. Let's step back. Let's not pay for a brandnew \$2.5 trillion entitlement program on the backs of our senior citizens.

Mr. ALEXANDER. How much time is left?

The PRESIDING OFFICER. The Senator from Arizona is controlling the time, and there is 3 minutes 20 seconds remaining.

Mr. MCCAIN. Mr. President, I mentioned the AARP and their opposition to this amendment. There is an organization called 60 Plus that has millions of supporters and members. They also feel very different from the AARP. Their message is:

Soon you [the Senate] will vote on the McCain motion to commit with instructions. The motion would commit it to the Senate Committee on Finance—

Et cetera.

I and the 5.5 million supporters of 60 Plus urge you to support this motion. The Patient Protection and Affordable Care Act is nothing of the sort. It would cut Medicare by \$500 billion. These cuts would harm seniors who have paid into the program and expect it to be there to help them with their health care needs. At 60 Plus, we pride ourselves on advocating for the best interests of seniors. That is a "yes" vote on this motion.

Let's pay attention to 60 Plus.

Mr. COBURN. I have a question. Does 60 Plus sell supplemental insurance policies to seniors?

Mr. MCCAIN. I don't believe so.

Mr. COBURN. But AARP does. I wonder why people want seniors off Medicare Advantage.

Mr. MCCAIN. Most people believe this would be a windfall of tens of millions of dollars for AARP if the legislation is passed as presently crafted.

Mr. ALEXANDER. How many Medicare Advantage members are there, for example, in Arizona? Is it a small program or a large program?

Mr. MCCAIN. Our figures are that 330,000 people in my State of Arizona are on Medicare Advantage. I noticed yesterday, when the distinguished chairman of the Finance Committee and the Senator from Connecticut were talking, they were disparaging the entire program, saying how it wasn't any good, talking about the cost overruns and saying it was a bad program. They have opposed it from the start.

So the message to the 330,000 Americans in Arizona who are on Medicare Advantage is that they are out to get you.

Mr. CRAPO. According to the Senator from Tennessee, it is my understanding that nationwide it is about one-quarter of all Medicare beneficiaries. About one in four Medicare beneficiaries in America will see their benefits cut. All Medicare beneficiaries will see their access cut. So these problems we are talking about are not just limited in their impact.

Mr. MCCAIN. I will respond again. There are cost problems with Medicare Advantage, but those cost problems can be fixed. Those cost problems can be brought under control. But the fact is, to do away with a program that allows them a choice in how they receive their care is, of course, again, an effort to have the government make the decisions for people, which flies in the face of everything we stand for and believe in.

Mr. ALEXANDER. I may say to the Senator from Arizona, I have heard our friends on the other side say Republicans are scaring seniors about Medicare cuts. Mr. President, it is not Republican Senators who are scaring seniors about Medicare cuts; it is the Democratic health care bill that is scaring seniors, because there are \$½ trillion of Medicare cuts that will pay for half of this program, and they are outlined on this chart, as the Senators have discussed.

The PRESIDING OFFICER. The time of the Senator from Arizona has expired. The senior Senator from Montana has 15 minutes 50 seconds.

Mr. BAUCUS. I will yield myself about 10 minutes. The Senator from Tennessee says this is going to hurt seniors. Let's ask the senior organizations what they think about that.

Let's also look at this organization called 60 Plus. What does the AARP say in the letter to Senator REID, dated December 2? It talks about this legislation:

The legislation before the Senate properly focuses on provider reimbursement reforms. . . .

I am sorry all my colleagues have fled the Senate. I would like for them to stay and listen to this. I would like to hear their response. But they have just fled the Senate after making sound bites.

Mr. ALEXANDER. Mr. President, I am here.

Mr. BAUCUS. I will take my time. The AARP letter, dated December 2, states:

The legislation before the Senate properly focuses on provider reimbursement reforms. . . .

Most importantly, the legislation does not reduce any guaranteed Medicare benefits.

That is AARP. All this is scare talk about "grandma." With all due respect to my friend from Tennessee, he says that. He has been using that phrase a lot. But AARP says that grandma is fine. AARP says:

Most importantly, the legislation does not reduce any guaranteed Medicare benefits.

It doesn't reduce any benefits, according to AARP. Going on:

AARP believes that savings can be found in Medicare. . . .

The savings in Medicare will extend the solvency of Medicare. I am sure my friend from Tennessee knows the actuary said this legislation extends the solvency of Medicare, helps Medicare. The benefits go on longer than the status quo. Also, it does so, according to AARP, by eliminating waste and inefficiency and aggressively rooting out fraud and abuse. The last sentence is:

We therefore urge you to oppose the McCain amendment to recommit. . . .

The AARP says this hurts seniors, the McCain motion to commit. I think the job of the AARP is to figure out what is best for seniors. That is their conclusion.

It is not just AARP's view. There is another letter. This is from the National Committee to Preserve Social Security and Medicare. They say basically this legislation doesn't cut Medicare benefits. Again, this is the National Committee to Preserve Social Security and Medicare. They say, rather, this legislation includes provisions to ensure that seniors receive high-quality care and the best value for their Medicare dollars. That is a very reputable senior organization. AARP is a very reputable senior organization. The National Committee to Preserve Social Security and Medicare is a very reputable organization. That is what they say.

Who is this 60 Plus association I have heard referred to? Let me just tell my colleagues what 60 Plus really is. I will read this. This is from Wikipedia, and it may not be accurate. It says this about 60 Plus:

The 60 Plus Association is an American conservative advocacy group based in Arlington, Virginia, that bills itself as the conservatives' alternative to the AARP.

That makes good sense because over the years it has sought to privatize Social Security. 60 Plus, over the years, has sought to privatize Social Security. They want to end the Federal estate tax. They also want to strengthen gun rights, but that is not relevant.

According to the AARP—

And this is a bit biased—the 60 Plus Association employed the talents of conservative direct mail mogul Richard A. Viguerie to solicit new members.

We all know who Viguerie is. 60 Plus is a very conservative organization. I don't think they are real interested in senior citizens. They have different fish to fry. Also, AARP criticized 60 Plus as being partisan because its issues and causes mirror those of only one of two major parties, the Republican Party.

A final criticism leveled by the AARP [about 60 Plus] is that because it lists no dues-paying members and [get this] receives the majority of its contributions from the pharmaceutical industry, the group is simply a front organization for the pharmaceutical industry.

I ask unanimous consent to have these letters in opposition to the McCain amendment, in support of the Bennet amendment, and the Wikipedia information printed in the RECORD.

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

#### ALLIANCE FOR RETIRED AMERICANS,

Washington, DC, December 1, 2009.

DEAR SENATOR, The Alliance for Retired Americans, on behalf of its nearly four million members throughout the nation, opposes the motion by Senator John McCain to commit the Patient Protection and Affordable Care Act, H.R. 3590, to the Finance Committee. We urge its prompt defeat by the Senate.

The McCain motion to commit would seriously undermine important, substantive, and positive changes in the health care needs of older Americans contained in the bill, none more important than proposed Medicare improvements. In fact, the McCain motion would increase health care burdens on Medicare beneficiaries in several instances. The McCain motion would, for the first time, subject Medicare Part D prescription drug premiums to means testing, causing a rise in premiums for many older Americans. In addition, the motion to commit would halt indexing to Medicare Part B physicians services premiums, causing even more seniors to pay higher premiums, which currently can be as much as \$300 per month. Furthermore, the McCain motion would continue the wasteful Medicare Advantage overpayments that currently threaten the financial stability of the Medicare Trust Fund.

The Alliance supports provisions in the Patient Protection and Affordable Care Act that improve health care for older Americans such as allowing Medicare beneficiaries to keep their choice of doctors, lowering prescription drug costs, eliminating copayments for preventive screenings, expanding access to long-term supports and service, and providing assistance for pre-Medicare eligible early retirees. All of these improvements will not be possible should the McCain motion pass.

The legislation does not cut Medicare benefits. With the expected rising costs of Medicare, the legislation slows the rate of the program's growth without reducing benefits. The McCain motion would actually undercut fiscally responsible attempts to meet the challenges of providing health care for older Americans.

The Alliance for Retired Americans is committed to enacting legislation that improves the quality of life for retirees and all Americans. Defeat of the McCain motion to commit the Patient Protection and Affordable Care Act to the Finance Committee will directly benefit our members and more than forty million older Americans. If we can be of assistance, please contact Richard Fiesta, Director of Government and Political Affairs, at the Alliance.

Sincerely yours,

BARBARA J. EASTERLING,  
President.

RUBEN BURKS,  
Secretary-Treasurer.

EDWARD F. COYLE,  
Executive Director.

AARP,

Washington, DC, December 2, 2009.

Hon. HARRY REID,  
Majority Leader, U.S. Senate,  
Washington, DC.

DEAR LEADER REID: AARP supports moving forward on health care reform, and we remain committed to enacting legislation this year that protects and strengthens Medicare, improves the delivery of health care and provides affordable insurance for all. Accordingly, we oppose the amendment offered by Senator McCain to recommit H.R. 3590 to the Senate Finance Committee.

As we have said from the outset, AARP supports a balance of revenues and savings with shared responsibility from individuals, employers and the government. With respect to Medicare, AARP supports policies to eliminate waste, fraud and abuse—and to im-

prove the quality, value and sustainability of the program for current and future beneficiaries. The legislation before the Senate properly focuses on provider reimbursement reforms to achieve these important policy objectives. Most importantly, the legislation does not reduce any guaranteed Medicare benefits.

AARP believes that savings can be found in Medicare through smart, targeted changes aimed at improving health care delivery, eliminating waste and inefficiency, and aggressively weeding out fraud and abuse. Such changes will help strengthen Medicare's long-term financing without increasing costs for beneficiaries that make health care less affordable. Medicare provides critical health security to older Americans, and it is important that Medicare continue to deliver high quality care. As health care costs, including Medicare costs, continue to skyrocket, it is essential that we make changes to improve health care delivery, improve Medicare's financing, and ensure maximum value for our Medicare dollars. We believe that Medicare changes in this bill begin to move us down this path, without reducing guaranteed Medicare benefits.

With these savings, the legislation before the Senate takes important steps to improve access to preventive services for Medicare beneficiaries. However, more should be done to strengthen Medicare—including closing the Medicare Part D coverage gap, or "doughnut hole," as pledged by the President.

We therefore urge you to oppose the McCain amendment to recommit, and we remain firmly committed to working with you to strengthen Medicare and enact comprehensive health care reform this year that improves access and affordability of health care for all.

Sincerely,

ADDISON BARRY RAND.

NATIONAL COMMITTEE TO PRESERVE  
SOCIAL SECURITY AND MEDICARE,  
Washington, DC, December 3, 2009.

U.S. Senate,  
Washington, DC.

DEAR SENATOR: On behalf of the National Committee to Preserve Social Security and Medicare's millions of members and supporters, I am pleased to endorse the amendment of Senator Michael Bennet of Colorado which clarifies that H.R. 3590, the Patient Protection and Affordable Care Act, would improve the Medicare program as part of health care reform.

Senator Bennet's amendment puts into law two of the most important criteria the National Committee has been using when analyzing health care reform proposals. First, it states explicitly that the legislation would not reduce any of Medicare's guaranteed benefits. Second, it ensures that savings from Medicare would be used to improve Medicare. Improvements in H.R. 3590 include extending the solvency of the Medicare trust funds by five years, reducing the amount of future increases in premiums, eliminating cost-sharing for preventive benefits, making prescription drugs more affordable, and ensuring access to Medicare providers.

Protecting Medicare and Social Security has been the National Committee's key mission since our founding 27 years ago and remains our top priority today. Our members are no different than seniors all over this country who are nervous about rising out-of-pocket health care costs and are concerned about the Medicare savings in health care reform legislation. This is a legitimate concern, but it is important to put these savings



in perspective. The federal government will spend almost \$9 trillion on Medicare in the next decade. The proposed savings of nearly \$500 billion mean that the growth in spending will be reduced by about two percent over the next 10 years by eliminating wasteful spending and outright fraud.

The H.R. 3590, the Patient Protection and Affordable Care Act, includes savings that are designed to protect Medicare beneficiaries and improve the Medicare program. Senator Bennet's amendment expressly prohibits any reductions in guaranteed Medicare benefits and makes sure all savings are reinvested back into Medicare. I urge you to support the Bennet amendment which is important to Medicare beneficiaries and the solvency of the Medicare program.

Cordially,

BARBARA B. KENNELLY,  
*President & CEO.*

NATIONAL COMMITTEE TO PRESERVE  
SOCIAL SECURITY AND MEDICARE,  
*Washington, DC, December 1, 2009.*  
U.S. Senate,  
*Washington, DC.*

DEAR SENATOR: On behalf of the millions of members and supporters of the National Committee to Preserve Social Security and Medicare, I am writing to express our opposition to the amendment offered by Senator McCain which would recommit H.R. 3590, the Patient Protection and Affordable Care Act, to the Senate Finance Committee with instructions to remove important Medicare provisions.

Much of the rhetoric from opponents of health care reform is intended to frighten our nation's seniors by persuading them that Medicare will be cut and their benefits reduced so that they too will oppose this legislation. The fact is that H.R. 3590, the Patient Protection and Affordable Care Act, does not cut Medicare benefits; rather it includes provisions to ensure that seniors receive high-quality care and the best value for our Medicare dollars. This legislation makes important improvements to Medicare which are intended to manage costs by improving the delivery of care and to eliminate wasteful spending.

The National Committee opposes any cuts to Medicare benefits. Protecting the Medicare program, along with Social Security, has been our key mission since our founding 25 years ago and remains our top priority today. In fact, these programs are critical lifelines to today's retirees, and we believe they will be even more important to future generations. But we also know that the cost of paying for seniors' health care keeps rising, even with Medicare paying a large portion of the bill. That is why we at the National Committee support savings in the Medicare program that will help lower costs. Wringing out fraud, waste and inefficiency in Medicare is critical for both the federal government and for every Medicare beneficiary.

The Senate bill attempts to slow the rate of growth in Medicare spending by two to three percent, or not quite \$500 billion, over the next 10 years. However, it is important to remember that the program will continue growing during this time. Medicare will be spending increasing amounts of money—and providers will be receiving increased reimbursements—on a per capita basis every one of those years, for a total of almost \$9 trillion over the entire decade. Even with the savings in the Senate bill, we will still be spending more money per beneficiary on Medicare in the coming decades, though not quite as much as we would be spending if the bill fails to pass.

America's seniors have a major stake in the health care reform debate as the skyrocketing costs of health care are especially

challenging for those on fixed incomes. Not a single penny of the savings in the Senate bill will come out of the pockets of beneficiaries in the traditional Medicare program. The Medicare savings included in H.R. 3590, the Patient Protection and Affordable Care Act, will positively impact millions of Medicare beneficiaries by slowing the rate of increase in out-of-pocket costs and improving benefits; and it will extend the solvency of the Medicare Trust Fund by five years. To us, this is a win-win for seniors and the Medicare program.

The National Committees urges you to oppose the motion to recommit the bill to the Finance Committee with instructions to strike important Medicare provisions from health care reform legislation.

Cordially,

BARBARA B. KENNELLY,  
*President & CEO.*

60 PLUS ASSOCIATION  
[From Wikipedia]

The 60 Plus Association is an American conservative advocacy group based in Arlington, Virginia, that bills itself as the conservatives' alternative to the AARP, (formerly the American Association of Retired Persons). Over the years, it has sought to privatize Social Security, end the federal estate tax, and strengthen gun rights. Current issues include opposing health care reform proposals; opposing federal energy standards; opposing the General Motors bailout; and opposing tax increases on those earning more than \$250,000 per year. 60 Plus is a member of the Cooler Heads Coalition, an climate change denial organization.

According to the AARP, the 60 Plus Association employed the talents of conservative direct mail mogul Richard A. Viguerie, to solicit new members. The AARP has also criticized the 60 Plus Association as being partisan because its issues and causes mirror those of only one of the two major United States parties, the Republicans. A final criticism leveled by the AARP is that because it lists no dues-paying members and receives the majority of its contributions from the pharmaceutical industry, the group is simply a front organization for the pharmaceutical industry.

The organization's website provides positive reviews of its work by conservative politicians and commentators, including:

"The 60 Plus Association has helped provide the organization and momentum needed for repeal of the federal estate or death tax. I commend the Association for its efforts to abolish this unfair and burdensome tax."—Rep. Ralph M. Hall (R-TX)

"Small business leaders recognize how counter-productive this tax really is. That's why they endorsed repeal of the death tax and why my bill is supported by the 60 Plus Association."—Senator Jon Kyl (R-AZ)

"Jim Martin (who, by the way, gave George W. [Bush] his first political job) is the head of Washington, DC-based, The 60 Plus Association and one of the country's most vocal defenders of the tax rights of seniors."—Mona Lipschitz, News Editor "Talkers Magazine" "Sources" Column March 2001.

#### LEADERSHIP

60 Plus is led by its President James L. Martin, a 73-year-old veteran of the U.S. Marines. Martin has previously led several conservative advocacy groups, and also was chief of staff for six years for former Republican congressman and senator, the late Edward Gurney of Florida. Martin also served as a member of President George W. Bush's health and human services transition team.

#### FUNDING

In 2001, 60 Plus received a total of \$275,000 from the Pharmaceutical Research and Man-

ufacturers of America, the group Citizens for Better Medicare, itself largely supported by the pharmaceutical industry, and three drug companies (Merck, Pfizer and Wyeth-Ayerst) plus another \$300,000 from Hanwha International Corp., the U.S. subsidiary of a Korean conglomerate with chemical and pharmaceutical interests—amounts that made up about 29 percent of its revenue. "We're not a front for anybody," James L. Martin, the chairman of 60 Plus, told the AARP Bulletin. "I get money from lots of sources. I've received money from the pharmaceuticals—I wish it was more." 60 Plus does not provide any explanation of its funding on its website.

In 2003, President Jim Martin told the British Medical Journal that 60 Plus had 225,000 members, whom he would not disclose for privacy purposes. However, according to the organization's IRS Form 990, 91 percent of its \$11 million in 2002 revenue came from one undisclosed source. The Public Citizen watchdog group suspects that the pharmaceutical industry was that source. According to the Washington Post, in 2002, 60 Plus received an unrestricted educational grant (which can be used as most needed) from the Pharmaceutical Research and Manufacturers of America. As recently as 2001, 60 Plus has not reported any member dues as revenue on its past tax returns, reported the AARP Bulletin.

60 Plus also earns income from sponsoring life insurance and health screening for its members.

#### HEALTH CARE REFORM

On August 7, 2009, 60 Plus released a TV ad to be aired on cable networks to inform viewers about the proposed U.S. health care reform legislation. Media Matters for America watchdog group found that the ad was largely false and used "scare tactics" to discourage voters from backing reform. To publicize the ad's launch, 60 Plus issued a press release titled "Massive Medicare Cuts Await Elderly Says New Ad From Seniors Group" that read in part, "... The healthcare proposal touted by the Obama Administration means massive Medicare cuts in order to pay for healthcare 'reform'." 60 Plus provided no evidence of these supposed "massive Medicare cuts."

Mr. BAUCUS. Mr. President, I think it is pretty clear that the main organizations that care about seniors support this bill. Another organization—60 Plus—I don't know what they think. I guess they oppose it because they want to privatize Social Security, and they get most of the money from the pharmaceutical industry. I don't think they care about senior citizens, frankly, and certainly not as much as these other organizations.

I think it is also important to point out that this legislation is deficit neutral over not just the first 10 years but over the next 10 years. It is more than deficit neutral. This legislation generates a \$130 billion surplus the first 10 years and, as we all know, reduces the budget by a quarter of GDP over the next 10 years. So this is not irresponsible; it is very fiscally responsible. It is strongly supported by the senior organizations that care for seniors. I might say, too, it is not raiding Medicare at all. It is strengthening the Medicare trust fund and it extends the solvency of the trust fund.

Therefore, I think, clearly, as AARP says, we should oppose the McCain amendment, which hurts Social Security beneficiaries, does not help them.

I yield such time as the Senator from Illinois needs.

The PRESIDING OFFICER. The Senator from Montana has 9 minutes 20 seconds, and the other side's time has expired.

Mr. DURBIN. Mr. President, I ask to be recognized for 5 minutes. If the chair would advise me when I have used that time.

I found it interesting, as I am sure the Senator from Montana has, to listen to all of the Republican Senators who have come to the floor to defend Medicare. I am sure the Senator from Montana has the same memory I do—that when it was created, it was created by the Democratic side of the aisle, with the general opposition of the Republican side of the aisle. They said it was socialized medicine, too much government, and it would fail. Now they are coming riding to the rescue of Medicare. We have a right to be skeptical about the arguments they are making.

Imagining these Republican Senators defending Medicare is trying to imagine a fish riding a bicycle. I cannot put it in my mind. But they are doing it. The Senator who sponsored this motion to commit, Senator MCCAIN, just a year ago, in the course of his Presidential campaign, called for eliminating \$1.3 trillion in spending from Medicare and Medicaid. Now he comes to the floor and says this bill, which would reduce costs in Medicare by less than half of that amount over a 10-year period of time is irresponsible and the death knell of Medicare.

What is the real story? The real story is the Republican side of the aisle is defending the private health insurance companies—companies making generous profits from Medicare Advantage. This is a program offered by private health insurance companies to replace government-run Medicare. It turned out, in many instances, to have failed miserably. It costs more money because these private health insurance companies are taking profits out of the Medicare Advantage Program. So they have pleaded with the other side of the aisle to come to their rescue. They have sent in their best troops on the other side of the aisle, headed by the senior Senator from Arizona, who has said the first thing I will do is to protect these private health insurance companies and their rights to overcharge seniors in Medicare for Medicare Advantage.

He talks about the people now receiving Medicare Advantage, who may be disadvantaged and see a different policy in the future. What the Senator from Arizona and others don't dwell on is that everybody under Medicare today pays \$90 a year more into Medicare to subsidize the private health insurance companies that offer Medicare Advantage. This is a tax—a tax—which the Senator from Arizona is trying to preserve. It is a tax on Medicare recipients.

The Senator from Arizona was right a year ago. We can take an honest look

at Medicare and Medicaid and take money out of the system without disadvantage to the people involved.

I want to say to the Senator from Arizona and others that once we have dispatched his motion to commit, he will have a chance to vote for Senator MICHAEL BENNET's amendment. It could not be clearer. It has two parts. It says—repeating what this bill says, it says unequivocally:

No provision in this Senate bill can reduce any Medicare benefit guaranteed by statute.

Next paragraph:

Savings in Medicare from the bill will go to extend the life of the Medicare trust fund, lower part B premiums, or cost sharing, expands benefits, improves access to providers.

We know, and the seniors across America know, that left unattended and uncared for, Medicare may go broke in just a matter of 7 or 8 years. This bill before us will extend the life of Medicare for at least 5 years. It will put Medicare on sound footing which every senior and their families want to have. That is why AARP, the largest organization of senior citizens across America, has urged Members of the Senate in both parties to oppose the McCain motion to commit. That is why I stand today with the Senator who is chairman of the Finance Committee and say to my Republican friends, with their newfound love affair with Medicare, that they should reject the 60 Plus organization, this "wise counsel" they turned to that came up with the idea of privatizing Social Security.

How would you like to have had all your Social Security money in the stock market over the last 2 years? Boy, there is a great idea. Stick with this 60 Plus group if you like the notion of privatizing Social Security. Stick with AARP if you want Medicare to be strong, on sound financial footing.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I think it is appropriate to remind people of some of the provisions that are in this bill.

To repeat, because some people have listened to some of this debate and some have not and some might be tuning in right now, the fact is, without reform, without this legislation, Medicare is expected to go broke in the next 8 years. That is according to the Medicare trustees report. With this legislation, that is extended for at least 5 more years. That protects seniors. This legislation protects seniors. Without reform, that is, without this bill, costs will rise and seniors will be forced to bear more and more of the burden out of their own pockets. This legislation adds benefits for seniors. It does not take it away, as the other side implies.

Without reform, seniors will struggle to afford prescriptions in the doughnut hole. I remind my colleagues that this legislation will cut the cost of brand-name prescription drugs in half for sen-

iors during that gap, the so-called doughnut hole.

It will also help provide more benefits in terms of annual wellness visits. When seniors go to the doctor for a colonoscopy, mammography, or other preventive screenings, they will not have copays, as is currently the case today. That is an added benefit this legislation provides for seniors.

Also, this legislation helps seniors who are eligible for both Medicare and Medicaid with access to home, community-based alternatives. A lot of our seniors would like that additional benefit. That is all in this legislation.

This legislation provides more benefits for seniors, not fewer. This legislation protects seniors; it does not harm them. This legislation extends the solvency of the trust fund rather than not.

I might also say—and I think the Senator from Illinois made a very good point—currently, seniors who are paying a Part B premium are really paying a \$90 tax per year for those persons who are in Medicare Advantage. We know Medicare Advantage is overpaid. The Senator from Oklahoma, Mr. COBURN, agreed with me when I asked him just yesterday if Medicare Advantage was overpaid. He said, yes, it is overpaid by a very large margin. This legislation can adjust that overpayment.

I might also say, too, that the groups I mentioned support this legislation. But the main point I want to make is this: There are so many fundamental provisions in this legislation that really have not come out much in debate, a little esoteric but under the heading of "delivery system reform." We must begin to change the way we reimburse doctors and hospitals so we are focusing much more on quality of care rather than quantity of care. Some of that is already happening in America without legislation. Basically, it is the nature of integrated systems. We all talked about them. I know Senators on the other side of the aisle also agree with this new trend where hospitals, doctors, nursing homes, and other groups get together and they coordinate their care. Their care is much more patient focused. We have to move much more in that direction.

This will go a long way once it starts kicking in—it is going to take maybe 3 or 4 years to finally have an effect—toward eliminating the waste in our current system. Estimates are we have between \$200 billion to \$300 billion to \$800 billion annually in waste in the American health care system. That is the reason health care costs are so high for family, businesses, governments, whatnot. We have to begin to get that under control, and this legislation does that.

If we do not pass this legislation, we will be postponing the day when we have to begin to get some of these excessive costs under control, and then the problem will be much more difficult. An ounce of prevention is worth a pound of cure in medicine. It is also true in legislation. Clearly, now is the

time to exercise a little ounce of prevention by starting to curb excessive costs, and this bill does that.

Mrs. LINCOLN. Mr. President, with a mother who is covered by Medicare, I remain committed to protecting seniors' access to Medicare, just as I have throughout my public service, which is exactly why I am opposed to the McCain motion to commit. Mr. MCCAIN's purpose is not to protect Medicare but to frighten our Nation's seniors so that they too will oppose health care reform. I have noted that he has taken his scare tactics to a new level by recording his voice for an automated phone call into my State claiming to seniors that these Medicare savings are going to cut their benefits. He urges them to call me. I believe the seniors in my State know me better than that. They know that I have worked my entire career in this body to protect Medicare.

I have cosponsored the Bennet amendment as an extra safeguard to ensure our seniors that this bill does not cut the guaranteed Medicare benefits that they receive today and that any savings generated from making the Medicare Program more efficient will go back into improvements to the program.

If we do nothing, the Medicare Program will be broke in just 8 years. This bill restores the program's solvency beyond 2022. It will reduce premiums and copays for seniors; ensure seniors can keep their own doctors; cut the billions of dollars of waste, fraud, and abuse that occur annually; provide new prevention and wellness benefits for seniors; lower their prescription drug costs; and help them to stay in their own homes rather than going to nursing homes if that is what they wish to do.

So what about the \$500 billion in Medicare cuts Republicans say seniors should be worried about? Well, what they are not saying is that part of the reason Medicare is insolvent is the fact that private insurers under the Medicare Advantage Program are overpaid by 14 percent on average. A typical couple pays \$90 more per year in Part B premiums to pay for Medicare Advantage overpayments, even if they are not enrolled in these plans. This bill curbs those overpayments, saving over \$118 billion, by for the first time requiring competitive bidding of Medicare Advantage plans against one another. Furthermore, Medicare and Medicaid subsidies to hospitals that help them cover the cost of the uninsured will be reduced since hospitals will have less need for them once millions more Americans have health insurance. That is another \$43 billion. Provision after provision is specifically designed to ensure greater value in Medicare, all while the Republicans are using fear tactics to score political points.

I have heard from many seniors in Arkansas, recently, and over the years, about their satisfaction with Medicare. It is not a perfect program, and as a

Senator it is my job to ensure that Congress continue to improve upon the program as needed so that it can continue to meet the needs of our Nation's seniors. Rightly so, seniors in my State are concerned about the misinformation spreading that we will cut their benefits and allow bureaucrats to ration their care. Organizations such as AARP, the Alliance for Retired Americans, and the National Committee to Preserve Social Security and Medicare have stood up to say enough with the misinformation campaign. Today I add my voice to that chorus.

Mr. FEINGOLD. Mr. President, I opposed Senator MCCAIN's attempt to send the bill back to committee because it would have effectively ended the current debate on health care reform. Moreover, while I have concerns about some of the offsets in the bill—such as cuts to hospice and home health care—it would be fiscally irresponsible to throw out provisions that cut down on wasteful spending and reward quality, as the McCain motion would have done. Those provisions are key to helping to put Medicare on the path to long-term fiscal sustainability.

The PRESIDING OFFICER. The Senator's time has expired. The next 10 minutes is evenly divided between the Senator from Colorado and the Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield 2 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The senior Senator from Iowa is recognized for 2 minutes.

Mr. GRASSLEY. Mr. President, as I stated earlier, the Bennet amendment, as written, does not protect Medicare. So I have a modification I would like to present that ensures Medicare savings in this bill are not being siphoned off to finance a new and separate entitlement program.

To that end, I ask unanimous consent to modify the amendment by adding the following before the period at the end of subsection (b):

... and furthermore that, notwithstanding any other provision of this Act or amendment made by this Act, net Medicare savings specified in the most recent estimate available from the Director of the Congressional Budget Office before enactment are appropriated to the Secretary and shall be used for such purposes and to maintain Medicare policies for home health services, skilled nursing facility services, hospice care, hospital services, and benefits provided by the Medicare Advantage program, as under the provisions of such Title as specified on the day before the date of enactment of this Act.

End of my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Reserving the right to object, under current law, if less is spent for Medicare providers, the benefits inure to the Medicare trust fund beneficiaries.

Although I have the greatest respect for the Senator from Iowa, this is a stunt, and I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRASSLEY. Then if I may?

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I would like to make very clear that this objection confirms that the Bennet amendment does not protect Medicare as the other side claims that it protects Medicare.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, this motion sends the legislation back to the Finance Committee for a short period of time with instructions to report back with cost offsets other than Medicare cuts. The motion says we should retain the provisions in the legislation addressing fraud and abuse and retain those savings to strengthen the Medicare trust fund. Instead of cutting over \$450 billion from Medicare providers and beneficiaries, the committee should do what it should have done in the first place—protect seniors' benefits and access to providers. It is much needed.

Mr. President, I say to my friends, let's save seniors who have paid into the Medicare Program their whole lives from these damaging cuts. I hope my colleagues will vote in favor of this motion. Let's use Medicare savings to save Medicare, not to fund a whole new \$2.5 trillion entitlement program. I urge a vote in favor of the motion.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. BENNET. Mr. President, I wish to sum up the debate over Medicare in the Senate health bill and on the motion and amendment before us.

Only in Washington, DC, could an effort to extend the life of Medicare somehow be distorted as being bad for seniors. We know from the Congressional Budget Office, a nonpartisan organization that supports both sides of the aisle, that this Senate bill does not take away any seniors' guaranteed Medicare benefits. It extends Medicare solvency for 5 additional years. My amendment simply confirms these two facts.

I am the first person who would insist we have an open process for this debate. I think there are ideas on each side of this debate on this bill that are worth considering and should be considered. But it is why I find it so confounding that opponents of my amendment want to send the entire bill back to committee so debate stops. How can we return home to the people of our States and admit to them we just gave up and sent health care back to the committee for another round?

The people who do not want change are the people who are content to leave it the same and do not have a theory about how to extend Medicare. They would have seniors believe the bill is bad for seniors. Yet AARP, the Alliance for Retired Americans, the Center

for Medicare Rights, and the National Committee to Preserve Social Security and Medicare beg to differ. They disagree. They agree with this amendment and with the underlying bill. Senior advocacy organizations, grassroots organizations with their ears to the ground hearing the voices and concerns of seniors, support health care reform, and they agree that with my amendment, this bill strengthens Medicare and preserves seniors' benefits.

With the Senate bill finally reaching the floor, seniors are looking for simple clarity on how health care reform can help their lives. Nothing in this bill will cut guaranteed Medicare benefits, and this bill will extend Medicare solvency for 5 additional years. It actually makes the system work better instead of cutting or adding to a program. It actually changes the way Medicare works so it will be stronger and more stable.

People may disagree with the prescription, but as a general matter everybody knows the status quo is unsustainable, and this bill helps seniors. It eliminates the copay seniors have to pay for preventive care. We know preventive care saves lives and it saves money.

As we close debate on my amendment and the alternative motion to commit the bill to committee, I urge all the Members of this body to consider the consequences of inaction. My amendment affirms what the current Senate bill does to help seniors and strengthen Medicare. We all know even more can be done, so let's continue this debate and reject the motion to commit the bill back to the Senate committee.

I urge every Member of this body to support my amendment. Please vote yes on the Bennet amendment and protect our seniors.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. How much time remains?

The PRESIDING OFFICER. The Senator from Montana has 1 minute 50 seconds.

Mr. BAUCUS. The Senator from Arizona has yielded back his time. We might as well yield back our time, and we can vote.

The PRESIDING OFFICER. The Senator from Arizona yielded back his time. The Senator from Montana yields back his time. All time is yielded back.

The question is on agreeing to amendment No. 2826.

Mr. MCCAIN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. MCCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—100

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

The PRESIDING OFFICER (Mr. KIRK). On this vote, the yeas are 100, the nays are 0. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment (No. 2826) is agreed to.

Mr. DURBIN. Mr. President, I move to reconsider the vote.

Mrs. BOXER. 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 will now be 2 minutes of debate equally divided on the motion to commit offered by the Senator from Arizona.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask my colleague if he wishes to go first? Whatever he wants to do. It is his motion.

Mr. MCCAIN. Please go ahead.

Mr. BAUCUS. Mr. President, the McCain motion is next. Unless we act today and pass health care reform, the Medicare trust fund runs out of money in 2017. There are two ways to keep Medicare solvent: find efficiencies so Medicare spends less or increase revenues going into the trust fund—two ideas. Our bill would make Medicare Advantage more efficient. We would introduce competitive bidding—

Mr. BYRD. Mr. President, may we have order? We have a Senator speaking here. May we have order?

I thank the Chair.

Mr. BAUCUS. I thank the Senator from West Virginia.

We extend the trust fund for 5 more years. That is in this bill. Yes, Medicare Advantage plans would not be overpaid as much, but those plans could pay for greater efficiency by cutting their profits or cutting their executives' pay. They could do that. Nothing says they have to go after beneficiaries.

Our bill does nothing to reduce the guaranteed Medicare benefits. To the contrary, our bill would improve Medicare benefits. It would help seniors on the prescription drug doughnut hole and add new preventive benefits such as annual wellness visits. The bill would help ensure doctors would be available to treat Medicare patients. We would prevent the 21-percent cut in doctor payments under current law. For all those reasons, the American Association of Retired Persons supports reform and opposes the McCain motion.

I urge my colleagues to support reform and oppose the motion to commit.

Mr. MCCAIN. Mr. President, this motion proposes to send the legislation back to the Finance Committee to remove the nearly \$½ trillion in cuts that will severely impact all seniors who are eligible for Medicare. As the Senator from Montana mentioned, the system is going to go broke in 7 years. So what does this legislation contemplate? That we take \$½ trillion out of their savings and use it to fund a \$2.5 trillion new entitlement program. What does that do for the Medicare trust fund? Nothing.

I urge my colleagues to vote in favor of this motion and send it back to the Finance Committee. Do the right thing for the seniors of this country.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 42, nays 58, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—42

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

NAYS—58

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

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 58.

Under the previous order requiring 60 votes for the adoption of this motion, the motion is withdrawn.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that the Senate be in a period of debate only between now and 4:30. It is my understanding there has been an agreement that at 4:30 we will all go to the classified room in the Visitor Center to listen to what the administration has to say about Iraq and Afghanistan. I haven't had a chance to clear this with the Republican leader, but for the next hour we will remain in a period of debate only and come back and offer the amendment after we finish with the classified briefing.

We have not yet had agreement to recess at 4:30. I ask unanimous consent that we recess from 4:30 until 5:30 for a classified briefing.

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

The Senator from Idaho.

Mr. CRAPO. Mr. President, I wish to continue discussing the health care legislation we just voted on. We had a series of votes dealing with the Medicare issue. I wish to start my remarks by turning to the Senator from Mississippi, Mr. WICKER, and ask him if he has comments he wishes to make.

Mr. WICKER. Mr. President, I appreciate the Senator yielding to me. I think it is important for us all to understand where we are now. We have had a debate about the Medicare issue. The Senate had an opportunity, with the McCain amendment, to protect Medicare from the almost one-half trillion dollars in cuts the Reid bill proposes to do to Medicare. We said no to that opportunity and instead passed the amendment offered by Senator BENNET of Colorado which in sum total does absolutely nothing. What we have done now with the Bennet amendment is say that along with apple pie and motherhood, we also love Medicare, and we want everybody to know that. But the substantive effect of what we have now done is nothing.

I have this challenge to the managers of the bill on the other side and to the Democratic leadership: Now that Bennet has passed and McCain has been defeated, I challenge them to take this bill, send it back to CBO and CMS and have the independent analysts there look at it again. They will be duty bound to come back with the facts. The facts will be that the almost one-half trillion dollars cut in Medicare is still there.

Now that the McCain motion to commit has been defeated, and the sham of the Bennet amendment has been passed, there are still the same cuts to hospitals, there are still the same cuts to Medicare Advantage and to all the

senior citizens who depend on that and who were told during the campaign their coverage would not be taken away from them if they liked it. The cuts to nursing homes are there. The cuts to home health are there. And the cuts to hospice are still there.

Send the bill back to CBO. We can continue debating it. We will not have to miss out on one bit of rhetoric that we have already had. But ask the independent analysts: Are the Medicare cuts still there? They will be duty bound to come back to us and say: Yes, the same cuts that were there before are current in the bill now.

We have accomplished absolutely nothing today to protect Medicare.

I thank the Senator for yielding.

Mr. CRAPO. Mr. President, I thank the Senator from Mississippi.

Mr. President, I ask unanimous consent that several of my colleagues and I may engage in a colloquy during the time we have.

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

Mr. CRAPO. Thank you, Mr. President.

I wish to follow up on the comments of Senator WICKER from Mississippi because it is very critical that the American public understand what has happened in the Senate.

When you talk about health care reform, the vast majority of Americans have a couple of ideas in mind. First and foremost, they want to lower health care premiums and costs. That is what Americans think about primarily when they think about the need for health care reform.

They also want to see better access to quality health care and make sure those who are uninsured have access to health care, and those who are underinsured have access to health care, and that we all have access to quality health care. That is what this debate should be about.

But, instead, the legislation we see before us does not achieve that. Does it reduce the cost of health care? No. It drives up the cost of health care. It raises taxes hundreds of billions of dollars. It cuts Medicare by hundreds of billions of dollars. It grows government by \$2.5 trillion of new spending. It forces the most needy in our society into a failing Medicaid system. It imposes a damaging unfunded mandate on our struggling States. It still leaves millions of Americans uninsured and establishes massive government controls over our health care economy, including the creation now of a government insurance company.

We have been focusing in the debate on one part of this for the last little while; that is, the Medicare cuts. Mr. President, \$464 billion of the revenue to pay for this massive new entitlement that is being created is to come from Medicare, and it is nothing other than a direct transfer of assets in the United States from America's seniors in the Medicare system to a new government entitlement program.

There are other cuts. There are details of these cuts that I will put up right now on a chart.

The debate we have been having over the last, oh, almost 3 or 4 days now, is whether we should commit the bill back to the Finance Committee so these Medicare cuts can be removed. We just had two votes. One was what I will call a cover vote. It said we do not want to cut Medicare benefits and we should make sure that anything we do protects Medicare. It did not have any detail in it, but it passed 100 to nothing because it does nothing. It does not change what is in the bill. By the way, as I said, that vote just passed by 100 to nothing.

The second vote we took failed. Was the vote 40 to 60? I do not recall the exact vote. What would that amendment have done? That amendment would have put the bill back into the Finance Committee and required that we take out the Medicare cuts.

So let no one be confused, after the first round now in the Senate, we still see this in the bill—a transfer of \$464 billion from the Medicare Program to the establishment of a new entitlement program. I do not believe that is what Americans had in mind when they were talking about reform of health care.

There has been a study that came out—OK. I have the exact vote here. It was not 40 to 60. It was 42 to 58, but it was defeated, in any event, and now we still have the cuts to Medicare in the bill. Well, we are going to continue debating this issue.

I myself have an amendment that will send—for the skilled nursing homes—the bill back to Finance to correct the cuts for the skilled nursing homes. There are others who will try to address some of the pieces of this legislation to see if we can't find a way to fix and restore the strength and stability of the Medicare system.

Everyone admits we need to reform Medicare. But until this bill, none of us thought we were talking about taking from Medicare in order to create a massive new entitlement program, with the government control that comes along with it.

What do these cuts do? I am going to start out with the hospitals, the hospice services, the nursing homes, and the home health agencies. The reduction in Medicare spending on these medical providers will basically result in lower access to care for our seniors. I have had representatives in my office of both skilled nursing facilities and home health agencies who have talked to me about what this means to them. They have pointed out that the last time Congress did something like this, we lost, in Idaho, 30 percent, for example, I believe it is, of our home health agencies. They are not there anymore. If we have these kinds of deep cuts in the future, we are going to lose more of our home health care agencies.

One of the owners said to me—he put it this way: If you reduce the allocation of income to home health agencies, I have to either reduce employment, which means not hire as many nurses and medical providers, or I have to close parts of my building and stop operating as many rooms in the building, or do something to reduce costs.

What that means is that seniors will have less access. But that is not all this bill does. In addition to reducing the access for hospitals, hospice service, nursing homes, and home health agencies, it also cuts Medicare Advantage deeply.

Quickly, what is Medicare Advantage? Medicare Advantage is a program that about one out of four American seniors participate in in Medicare. It is an opportunity which Congress started a few years back to try to let the private sector become a part of the delivery system in Medicare. In other words, to put it simply, private sector insurance companies can contract with the Federal Government to provide Medicare services to Medicare beneficiaries, so it is the private sector getting involved in health care delivery rather than the government simply delivering the health care through a single-payer system. That, in a quick summary, is what Medicare Advantage was all about.

What we found was that it was phenomenally successful because the private sector was able, through its management, to not only provide the statutorily required Medicare coverage but additional benefits, very critical additional benefits, such as preventive health care, dental coverage, vision coverage, and things such as that—things that make a big difference in the lives of our seniors and enables some of those who cannot buy additional coverage for those things Medicare does not cover to get access to it through Medicare Advantage.

That is why in my State 27 percent of all of the Medicare recipients have moved to Medicare Advantage. It is the most popular part of Medicare in America today, and it is growing faster than any other part of Medicare because it is delivering more to the Medicare beneficiaries.

This bill slashes \$120 billion from it, some of us believe because there is a bias against the private sector delivery of health care. But for whatever reason, the Medicare Advantage portion is where the cuts are focused.

Let's put up the next chart.

When we had the issue before the Finance Committee, we had the head of CBO before us, and I asked him a question about the cuts to Medicare Advantage. We had a colloquy between us at that point, and I asked:

So, approximately half of this additional benefit—

In other words, these additional things that Medicare Advantage has been able to provide to our seniors under Medicare—

So, approximately half of this additional benefit would be lost to those current Medicare Advantage policyholders?

And his response was:

For those who would be enrolled otherwise under the current law, yes.

The point being, not only will we lose skilled nursing facilities, home health care, hospice care, and hospital care, and access to that care, we are also going to see senior citizens lose benefits. Again, what is the purpose? The purpose is not to shore up Medicare. In fact, it will take \$464 billion—taxpayer dollars that are allocated to Medicare in our current system—and transfer that straight over to the establishment of a new entitlement program.

I want to let my colleague from Nevada comment on this for a minute, but before I turn it over to my colleague from Nevada, I wish to point out that as we approach this issue, the question of why would we transfer \$464 billion out of the Medicare system to a new government entitlement program, one of the reasons is because the President pledged he would not sign a bill that did not reduce the deficit.

As I said earlier, this bill grows the spending in the Federal Government by approximately \$2.5 trillion over the first full 10 years of its implementation of spending. The only way to cover that increase in the size of the government is to either raise more taxes or to cut spending somewhere, and what the bill does is both. It raises taxes—which we are going to be talking about in future days—and it cuts spending. The place where it cuts spending is Medicare. That is why what we see is increased taxes, cuts in Medicare, growth of government, and the establishment of a new Federal entitlement program, with all of the accompanying accoutrements of Federal control, including a new government owned and operated insurance company.

I see my colleague from Nevada standing and turn to him for his comments on this issue.

Mr. ENSIGN. First of all, I think my colleague from Idaho has made some excellent points about, truly there will be cuts that are going to happen in Medicare. And do not just take the politicians' word for these cuts. Listen to the CBO Director. He is the nonpartisan, I repeat, nonpartisan, official scorekeeper. When asked direct questions, by not only the Senator from Idaho but others, he absolutely says the benefits, especially under Medicare Advantage, will be cut.

In my home State of Nevada, tens of thousands—I think about 200,000 altogether—of seniors have voluntarily chosen Medicare Advantage over traditional Medicare. The reason? Very simple. There are extra benefits in Medicare Advantage. You hear the Democrats talk about the doughnut hole in Medicare Part D, which is prescription drug coverage. Well, there is not a doughnut hole under most of the Medicare Advantage plans because the private sector, through its efficiency, has

been able to fill that doughnut hole. In other words, they get complete coverage of prescription drugs through their Medicare Advantage plans.

Also, under Medicare Advantage, they get additional preventive health care services. They also get vision and dental. And depending on the plan, depending on its makeup, there are different types of benefits to attract seniors to certain plans. It is no wonder that about one out of four seniors in America have voluntarily signed up for Medicare Advantage. Nobody forced them into this system. They voluntarily chose this system.

If you think about it, seniors do not like change. For most seniors, they like what they have. They do not like to change. For one out of four seniors to have voluntarily changed, there has to be something pretty attractive about Medicare Advantage.

There are some real attractive things for seniors in Medicare Advantage plans. That is why when you actually poll seniors regarding Medicare Advantage, the vast majority of them are thrilled with the coverage they have. They do not want to lose benefits. Who would want to voluntarily lose benefits?

But with the \$120 billion cut in Medicare Advantage the Democratic majority has put in this bill, about half of the benefits in Medicare Advantage plans will be cut. Isn't that correct, I ask my friend, the Senator from the State of Idaho?

Mr. CRAPO. The Senator from Nevada is correct. In fact, I am just thumbing through here to get the exact statistics. But the bottom line is, the CBO indicated, I think it was something like from an average number of \$140 or so of extra benefits—that it would go down to about half of that. So they would get about half of those extra benefits.

Mr. ENSIGN. That is per month?

Mr. CRAPO. Per month.

Mr. ENSIGN. So \$140 per month. According to CBO, about half of those benefits would be cut under this plan, isn't that correct?

Mr. CRAPO. That is correct.

Mr. WICKER. If the Senator would yield on that point.

Mr. CRAPO. I would be happy to yield.

Mr. WICKER. We have three Republicans standing now saying this, and we have had quoted some official independent sources. Let me quote a Democrat, Representative MICHAEL MCMAHON of New York:

Medicare Advantage, which serves approximately 40 percent of my seniors on Medicare, would be cut dramatically.

That is why that Democrat from the State of New York voted no on the plan when it was before the House of Representatives. So you don't have to take our word for it, from a partisan standpoint. Democrats are saying no because of the Medicare cuts and the cuts to Medicare Advantage—drastic cuts.

Mr. ENSIGN. The Senator from Idaho and I serve on the Finance Committee



where a large portion of this bill was written. We both heard Democrats on the other side of the aisle complaining about cuts to Medicare Advantage. Yet when I look in this bill, the total dollar figure in cuts to Medicare Advantage is the same as what came out of the Finance Committee; isn't that correct?

Mr. CRAPO. The Senator from Nevada is correct. I have in front of me the exact numbers right now from CBO that were provided in the Finance Committee markup. During the markup, CBO estimated that the value of the extra benefits offered by Medicare Advantage plans will drop from \$135 a month to \$42 a month, based on the cuts contained in that bill, which are essentially the same level of cuts we now see in the bill before us on the floor.

Mr. ENSIGN. Let me make a couple other general points about this bill. I think we have pretty well covered the fact that Medicare Advantage is going to take a severe hit. Medicare overall, that includes hospice care, hospital care, nursing home care, home health—all of them are taking severe cuts. More than likely, those cuts are going to come, if the government doesn't rescue those cuts in the future, from benefits to seniors.

If the government decides not to have those cuts in the future, then the deficit is going to go up. You can't have it both ways. You can't have both a deficit-neutral bill and not have the cuts in Medicare. In other words, you are going to either have the cuts in Medicare or you are going to have ballooning deficits into the future.

There are several other problems with the bill that I would like to point out. First of all, we know it is over 2,000 pages; there is incredibly complex language in those over 2,074 pages. It places bureaucrats in charge of health care decisions instead of creating a patient-centered health care system that says the doctor-patient relationship is where most of the health care choices should be made. As a matter of fact, according to the National Center for Policy Analysis, in almost 1,700 places in this bill it authorizes the Secretary of Health and Human Services to "make, create, determine, or define" things regarding health care policy. Mr. President, 1,697 times, to be exact, the Secretary of Health and Human Services basically makes health care policy—not doctors, not health care providers; bureaucrats in Washington, DC.

You mentioned before there were \$½ trillion in new taxes and about \$½ trillion in Medicare cuts. We know this bill will lead to millions of Americans having increased premiums.

We have talked a lot about what is wrong with the bill, however, many on this side of the aisle have offered positive solutions. We have talked about allowing small businesses to join together to take advantage of purchasing power that big businesses have. We have talked about allowing people to

buy insurance across State lines. Some States have less expensive plans than others. You can buy your auto insurance across State lines. Why shouldn't we be able to buy our health insurance across State lines?

Mr. CRAPO. If I could interrupt, my understanding is, the Republican bill in the House, which has both ideas in it and which was evaluated, what it would do to the cost of health care and health care insurance premiums, that those ideas would actually reduce health care premiums by, I think, 5 or 6 or 8 percent. I don't remember the exact number, but the point is, those ideas would hit the reason Americans want health care reform; that is, reduce the cost of health care coverage.

Mr. ENSIGN. I am glad the Senator from Idaho made that point, because the No. 1 problem with health care in the United States is not quality. We have the finest quality system—by almost any measure, the finest quality health care system in the entire world. The problem is that it is too expensive. We should be going after costs. This bill does not do that. This bill actually raises premiums for tens of millions of Americans. That isn't the direction we should be taking health care.

Another idea the vast majority of people on this side have supported is medical liability reform. Once again, in the Finance Committee, we asked the question—I, personally, asked the question of the CBO Director: How much money would medical liability reform—the common one I offered and Senator HATCH offered—how much would that save between the government and the private sector? He said: Over \$100 billion. Well, that is not chump change; that is a significant amount of money, \$100 billion. Add that to buying across State lines, add that to small business health plans, add that to incentivizing healthy behaviors—add that to the elimination of preexisting conditions. I think Republicans and Democrats alike agree, if you have insurance and you have played by the rules and you get a disease, your insurance should not be taken away or denied. We should eliminate preexisting conditions for those that have played by the rules. We shouldn't allow insurance companies to unexplainably increase rates. We should take a step-by-step, incremental approach to health care reform instead of gutting Medicare, as the Senator from Idaho has talked about, to create a new government entitlement program. That is what we are saying on this side of the aisle. However, it seems to be falling on deaf ears on the other side of the aisle.

Mr. CRAPO. I know my colleague from Mississippi wants to make a comment or two, but may I ask, Mr. President, how much time remains for our side?

The PRESIDING OFFICER. There is 7½ minutes.

Mr. WICKER. Mr. President, if I could just maybe take 1 minute of that

time and then my colleagues can wrap it up.

I wish to emphasize what a devastating effect these Medicare cuts are going to have on rural America. Once again, I wish to quote some of my colleagues from the other end of the building because it shows the bipartisan opposition we have against these cuts from rural America.

MIKE ROSS, a Democrat from Arkansas, said:

With more than \$400 billion in cuts to Medicare, it could force many of our rural hospitals to close, providing less access and care for our senior citizens.

Representative LARRY KISSELL of North Carolina:

From the day I announced my candidacy for this office, I promised to protect Medicare.

So he voted no on the bill in the House of Representatives.

IKE SKELTON said:

The proposed reductions to Medicare could further squeeze the budgets of our rural health care providers.

Finally, Representative BOUCHER, a senior Democrat from Virginia, said:

The plan could place at risk the survival of our regions' hospitals.

Unless these Medicare changes are taken out of the bill, this bill devastates health care for senior citizens in rural America.

I thank my colleague for yielding me the time.

Mr. CRAPO. Thank you very much. I wish to use the remainder of our time to speak for a minute about what this bill does to different costs in our country. I think the point we made in this colloquy is, after the votes we just took, let no one be confused; the \$464 billion of cuts to Medicare remain in the bill.

Let's talk about the question of the cost curve. There has been a lot of talk about what has become known as the cost curve. It has been said by everybody we need to bend the cost curve down. Some are saying this bill bends the cost curve down. Well, which cost curve are they talking about? Are they talking about the size of government, the growth of government? No. If you take the first full 10 years of the growth of spending in this bill—which, by the way, is delayed for 4 years—if you start when the spending starts and take the first full year, 10 years of spending, the new spending, the growth of government is about \$2.5 trillion. I don't see how anybody could say that cost curve is bending down. It has skyrocketed.

Well, would it be the cost of health care, which I think is the cost curve Americans were thinking about, health care insurance and the quality of health care that is provided? Well, CBO just came out with its report that analyzed that issue and there are a number of independent groups that have analyzed it and they all pretty much say it is not going to reduce the cost of health insurance. It is not going to reduce the cost of health care. In fact, for

the neediest in America, those who are in the individual market, it will drive up the cost of their insurance and not by just a little bit, by around 10 to 13 percent. For those in the small group area, it will drive up theirs—not as much—by about 1 to 3 percent. For those in the large group area, there is a possibility that theirs might taper off a little bit; the estimate is somewhere between zero impact and 2 percent reduction.

But is that what we are talking about in America, 30 percent of the people in this country seeing their health care insurance costs go up and the rest seeing theirs remain basically stable? That is not the cost curve reduction I thought Americans were talking about in health care reform.

So then what other cost curve could they be talking about? Well, there is a lot of talk about the deficit. Sometimes they try to shift away from the cost of health care to the cost of the bill to the people of America, and they say the deficit is reduced. Well, how can you say that? There is only one way you can say that and that is if you accept the budget gimmicks in the bill. If you raise taxes by around \$500 billion and if you cut Medicare by \$464 billion, then you can say this massive expansion of government is somehow covered and that the deficit won't grow.

Well, I think we have talked about the Medicare cuts part of this. We are going to talk about the tax increases, which are hundreds of billions of dollars of new taxes in the future, but what did I mean when I said you can only say the deficit goes down if you accept the budget gimmicks?

This bill starts the collection of revenues and the cuts out at the front end but doesn't start the spending for 4 years, so you have 10 years—in the 10-year window we are looking at, we have 10 years of revenue and 6 years, basically, of spending. Sure, if you only count 6 years of the spending side of the bill against 10 years of its collection side, you are going to be able to make that deficit look a little better.

In addition, there are major expenditures we all know are going to have to be done in health care, such as the SGR fix for physician compensation in Medicare, that are not even in the bill, an expense we know over 10 years is around 200 billion to 250 billion of extra dollars; simply not there, not counted. Well, if you want to show a deficit reduction, you certainly want to leave out of your bill a lot of the spending you are going to do in the future. It is gimmicks such as these, it is tax increases, and it is Medicare cuts that allow one to say the deficit goes down.

In conclusion, the reality is, this bill will increase the growth of government by \$2.5 trillion for a full 10-year measure, increase taxes by hundreds of billions of dollars, cut Medicare by hundreds of billions of dollars, create a Federal insurance company, create massive Federal controls over the health care economy, push the neediest

of the uninsured not into an insurance policy but into a failing Medicare system, and push an unfunded mandate of tens of billions of dollars onto our States. That is not the kind of health care reform we need. As my colleague from Nevada indicated, there are reforms that do make a difference that will reduce the cost of health care, that will cut down the spiraling costs of health care insurance, and will not require us to have such an intrusion of the Federal Government into the management of our economy.

It is time for us to slow down and start, step by step, to address the kinds of reforms that will reduce the cost of insurance and the cost of health care and that will help us to increase access to quality care in America. We can do it, and we have a number of very good ideas on the table we will be exploring in greater detail in future days as well that will help us to do it.

With that, I reserve the balance of our time.

May I ask how much time remains?

The PRESIDING OFFICER (Mrs. SHAHEEN). The minority has no time.

Mr. CRAPO. I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I think it would be instructive to stop all this rhetorical talking past each other on Medicare Advantage and explain a little bit about how we got to where we are in this legislation.

I don't know the exact year, but I think it was back in the 1980s sometime, up to a certain point Medicare was basically paid fees for services. That is the basic Medicare model. The service was provided and there are certain set rates for that service. Then, in the 1980s, private companies thought maybe they could be more efficient, private insurance companies. So they came to Congress and said: We can do a better job in compensating Medicare based on fee for service, so let's set up something called Medicare Advantage, private entities.

So Congress said: OK, competition is a good thing. So we did that. Congress did that. We basically set the rates to be paid to Medicare Advantage plans at 95 percent of fee for service. After all, the plan said they could do it more cheaply and they could compete. So we said: OK, that sounds like a good idea. We will pay you 95 percent of what otherwise would be paid under fee for service. That continued for a while.

In 1997, the plan said: Gee, we need a little more money. So Congress said: All right. And we gave a little more money to Medicare Advantage and basically said, OK, that will pay the 95 percent. But if you are not doing so well and making money at 95, we will set kind of a higher floor, according to certain areas of the country, and you could choose whatever enables you to have the greatest compensation.

The big change occurred in 2003, in the Medicare Modernization Act, otherwise known as the drug bill. It was the

legislation that created drug benefits for seniors. As we all know, frankly, when Medicare was created, it didn't have an outpatient drug benefit because drugs weren't comparatively as important then as they are today. Today there are miracle drugs that help in a lot of ways. We created the drug benefit in 2003.

The Congress did something else then. Many Members of Congress were concerned that Medicare Advantage might not offer the plans in rural parts of America, that there wouldn't be enough incentive for Medicare Advantage to go to rural America to offer the drug benefits—not only the drug benefits but other benefits they provided. Congress, frankly, gave a lot of money to Medicare Advantage plans so there could be at least two plans operating in all parts of the country. Give them enough money and they will go; that was the theory. Guess what happened. We gave them a lot of money and they went.

We have reached the point now where Medicare Advantage is, by everybody's estimate, quite dramatically overpaid, as the Senator from Oklahoma, Mr. COBURN, said when I asked him yesterday whether Medicare Advantage plans are overpaid. He said, "Yes, they are definitely overpaid."

MedPAC, which advises us on Medicare reimbursement, said to us that we are way overpaying Medicare Advantage plans. I hear figures of from 14 to 18 percent overpayment. It depends on what part of the country you are in. Let's be conservative and say it is 14 percent in fee for service, that they are overpaid. MedPAC is an independent advisory group that helps us figure out what in the world we pay hospitals, nursing homes, home health agencies, etc. We are not the experts. We need help. MedPAC said to the Congress that we are overpaying them big time.

We decided let's figure out a way to reform the system. How about a little competition? Right now, Medicare Advantage plans are paid what is called a benchmark, depending upon the fee for service in their certain area. We all know fee for service is much less in rural America, and I am sure in the home State of the occupant of the chair. Fee for service is much higher in other more urban States and so forth.

As it turned out, under the benchmarks for fee for service, they were way overpaying in States where fee for service is so high, and not quite as much overpaid where fee for service is so low. That is a nutty system in the current law today.

What we are doing in this legislation is, basically, we are saying: Look, let's introduce a little competition. We are saying: Let's get rid of the benchmark-type fee for service. It is out of whack in different parts of the country. What are we going to do? We say: OK, we will divide the country into geographic areas. In your area, wherever you might be, Uncle Sam—or Medicare—will pay the average competitive bid

for that area. The average cost you bid for that area is what we are going to pay, which eliminates this big disparity between States and makes it much more fair so that reimbursement is based much more on what it actually costs in a certain area, but it is competitively bid. That is what we are trying to do.

Is that a good thing to do? I think most of us think so. Is it perfect? I don't know for sure, but we are trying our best to make this a better system, a better program than we currently have. As a consequence, we are going to save some money, and there will be competition. Most of us think competition is often a pretty good thing. That is what this is, I remind my colleagues. As a consequence, we are not going to be overpaying Medicare Advantage plans anymore. The amount we reduced the payment to is in line with what MedPAC says we should pay, the Medicare Payment Advisory Commission.

We are trying to be responsible and reasonable with taxpayer money, seniors who pay into Medicare. The point is often made that, gee, this will hurt Medicare Advantage, hospitals, and so forth. I think it is worth reminding all of us that a meeting occurred at the White House, I think, 4 to 6 months ago, when all of the so-called providers—the hospitals, insurance companies, including Medicare Advantage plans—all got together with the President and said: Mr. President, we agree this country needs health care reform. They all agreed.

Let's move back in history a little bit. When President Clinton attempted health care reform, all those groups were opposed to health care reform. This time, they are pretty much in favor of it because they know if we don't fix it, it is going to collapse.

Back to that meeting. What did they say? They said: Mr. President, we have all gotten together and we think we can contribute. We can cut collectively \$2 trillion in payments that go to us over the next 10 years.

That is what they said. That is pretty interesting. Thank you very much. So we are working together to get health care reform.

Why do you think they would agree to \$2 trillion? They got their calculators out and got their financial officers together and said: Gee, if everybody has health care—remember, 46 million Americans don't have health insurance—if everybody had health insurance, hospitals, Medicare Advantage plans said: Hey, we can make some money because everybody has health insurance.

So that was the deal. They will have a little lower margins, but they will make it up on volume. That is why they said to the President: We can cut \$2 trillion that otherwise would be reimbursements to us.

In this legislation, did we reduce the rate of increase over 10 years by \$2 trillion? No. Did we decrease the rate of increase in expenditures by half of that

or \$1 trillion? No. Do we reduce the rate of increase of health care expenditures down to, say, \$450 billion, close to \$500 billion? Yes, that is what we did. About one-quarter of the industry said they could voluntarily contribute. Are they squawking today? No. Why? Because they got a pretty good deal. They know they can continue to provide services and the hospitals are going to do well and home health care agencies will do well. I will add that the profit margin for home health agencies is about 17 percent. That is pretty good. So we are cutting them a little bit. The profit margin for nursing homes—Medicare payments to nursing homes—is about 15 percent. We are cutting that a little bit. But they are still making money and still will do well. In fact, their average rate of growth over the next 10 years is going to be in excess of 5 percent a year. Wall Street analysts say these outfits are doing pretty well. You don't see their stocks going down.

We are trying to do what is right and to reform Medicare Advantage, as I just outlined it. It is a pretty fair attempt at reform. Also, we will reduce payments to hospitals and other providers in an amount that they can live with—not be happy with but an amount they are OK with, and where they know they can still make money. That extends the solvency of the Medicare trust fund another 5 years because those providers are not being paid as much as they would otherwise be paid.

I hear Senators crying crocodile tears about how seniors are going to be cut, and so forth. Frankly, with the changes we made, I think it is very fair, and it will extend the solvency of the trust fund. There is not one dime of guaranteed Medicare benefits that will be cut—not one thin dime—in this legislation. It is true that because Medicare Advantage—the rate of growth of increase in Medicare Advantage plans is trimmed back a little, perhaps there will not be as many extra benefits—not the guaranteed benefits but extras, fringe benefits, like gym memberships and things like that. Don't forget, that is not because that is a decision made by Medicare or by Congress; that is a decision made by the executive offices of these private companies. I am not saying they should do this. They could trim salaries, overhead, and they could have a little less return to stockholders, and they could cut down administrative costs. There are various things they could do, which doesn't have to be passed on to reductions in fringes. Let's keep things in perspective as to what is actually going on.

Mr. DODD. If my colleague will yield, I appreciate what the Senator has just done. This is an area where I think there is a lot of confusion and misunderstanding. A lot of it begins with just the branding, the title of something. This was, frankly, a revelation to me, going back a number of weeks ago. I heard the words "Medicare Advantage." I thought this has to be part of the regular Medicare Program because it has that title.

Mr. BAUCUS. Most people did.

Mr. DODD. If my colleague will correct me if I am wrong, this is not traditional Medicare; this is a private plan, right?

Mr. BAUCUS. That is correct. To be totally fair, the other side likes to trot out this Medicare pamphlet that includes Medicare Advantage. I think that is misleading and not accurate. As the Senator says, these are private plans.

Mr. DODD. In looking back a few years ago, the original reason—and I don't recall the debate as well as my colleague, the chairman of the Finance Committee, does. As I remember, the original idea behind this was—and he said this already, but it deserves being repeated—this was a way of cutting costs, reducing expenditures. In a sense, we were sold this idea on the fact that we could do this better, more efficiently, at far less cost.

Mr. BAUCUS. Absolutely. That was the rationale.

Mr. DODD. That is why we supported trying this idea. A couple of things happened since then. One, I think the overpayments, on average, are around 14 percent.

Mr. BAUCUS. That is correct. It depends on the part of the country.

Mr. DODD. So, on average, it is 14 percent in overpayment. Is it also true that roughly 80 percent of Medicare beneficiaries don't get any of these benefits?

Mr. BAUCUS. That is correct.

Mr. DODD. And that the average Medicare couple over the age of 65 is paying, I am told, about \$90 a year more in Medicare payments for benefits they don't get.

Mr. BAUCUS. Exactly.

Mr. DODD. So here we have 75 to 80 percent of the beneficiaries of Medicare paying more money and not getting the benefits for a program that costs more than 14 percent more, and it is a private plan.

Mr. BAUCUS. With great considerable administrative costs and profits that otherwise could go to seniors.

Mr. DODD. Our bill does something that I think our friend from Oklahoma, Senator COBURN, pointed out that is absolutely critical, which is that competitive bidding did not exist in the original.

Who was setting these rates originally during this period of time? How did these rates get set? Did Congress set them?

Mr. BAUCUS. Congress did. Congress set the benchmarks.

Mr. DODD. Is it true that if these Medicare Advantage plans come in under the benchmark bid, they actually get a piece of the savings? Is that correct as well?

Mr. BAUCUS. That is correct.

Mr. DODD. So there is an incentive to trim the cost of the administration of the program. It is also true the plans get bonus payments for care, coordination, and quality, and plans can use these bonuses to improve benefits?

Mr. BAUCUS. That is correct. Under this legislation, we say—frankly, under the earlier Medicare Advantage plans, HMOs had some coordinated care, but the other half, the private fee for service, preferred provider organizations did not have coordinated care.

We are saying in the legislation that if you are in the Medicare Advantage plan, which includes a whole list, and you provide coordinated care, we are going to give you a bonus.

Mr. WICKER. Madam President, will my friend yield for a question?

Mr. DODD. Certainly.

Mr. WICKER. I realize we do not have much time. I have a quick question. I was listening to the debate on television. I understood the Senator to say Medicare Advantage is not part of Medicare. My question is: I have here the Medicare handbook for 2010, "Medicare and You." It says right on page 50:

Medicare Advantage Plans (Part C). A Medicare Advantage plan . . . is another health coverage choice you may have as part of Medicare.

My question to the Senator is—to my friends on the other side of the aisle: Is the Medicare handbook inaccurate and, if so, will you be calling CMS, Medicare, and be asking them to change what they say explicitly on page 50 of the Medicare handbook?

Mr. BAUCUS. That is a very interesting question. When I was told about the handbook, that is what I thought I was going to do, is call up Medicare and say that is misleading and it is inaccurate because it is misleading and it is inaccurate.

Mr. DODD. Absolutely.

Mr. BAUCUS. These are private companies.

Mr. WICKER. Even though Medicare put it in their handbook, has had it for several years, it is wrong?

Mr. DODD. They are wrong. It is a private health care plan. It is a private health care plan. Medicare is a public plan. Medicare Advantage is not Medicare, and it is certainly not an advantage, given the overpayments that occurred.

Mr. WICKER. Isn't it in part of the Medicare legislation?

Mr. DODD. It is a private plan. My colleague understands that, I hope. Medicare Advantage is a private plan. You know that, of course, don't you? I assume you know that.

Mr. BAUCUS. It has officers, a board of directors.

Mr. WICKER. I know this. It is in the handbook. I want my two friends of the majority party to get it out of there. We thought all along it is part of Medicare and the millions of senior citizens who rely on this and who were told in the campaign, if you are satisfied with your coverage, you don't have a thing to worry about, they are going to be able to keep their coverage. Under the Democratic legislation, they would not be allowed to keep their coverage under this bill.

Mr. DODD. If I can reclaim my time, 80 percent of older Americans are pay-

ing \$90 more a year for this. Do they have any say in this? They don't get any of the benefits. Why are they writing a check for \$90 a year to pay a private plan from which they get no benefits? What about them? Don't they deserve something in all this?

Mr. WICKER. The question I had was: Is this a part of Medicare?

Mr. DODD. It is not.

Mr. WICKER. I realize my friends have a difference of opinion. The authorities for Medicare who put this publication out year after year say Medicare Advantage is part of Medicare. It is Part C. I think it is disingenuous for my friends to say it is not.

Mr. DODD. The only reason it is part of it is it is subsidized. This plan gets subsidized by the American taxpayers. That is the only qualification that puts it under the Medicare umbrella because our taxpayers are writing a check to a private company. That is why it gets included as part of Medicare. Other than that, it is a private plan.

Mr. BAUCUS. This is a semantic question. When you see the operational effects, as my good friend from Connecticut said—

Mr. WICKER. One other question. Is it a semantic question to ask: Are the American seniors who are currently enjoying Medicare Advantage going to be disallowed from this program? The answer is yes, under this bill.

Mr. BAUCUS. This legislation, if I may say, expressly states there will be no reduction in what is called guaranteed benefits under Medicare. No reduction, whether it is under Medicare Advantage, whether it is under fee for service—whatever it is, no reduction whatsoever.

To be fair to my good friend, I used the words "guaranteed benefits." Guaranteed benefits are the usual benefits seniors think of when they are under Medicare. They go to a doctor, hospital, so on.

We have given, unfortunately, so many additional dollars to the so-called Medicare Advantage plans—way above what they should have received. MedPAC agrees. Senator COBURN totally agrees they have been paid way too much. They have taken advantage of that advantage by giving additional benefits, in addition to the guaranteed benefits. Those additional things such as gym memberships—a lot of extra stuff that, frankly, is not part of Medicare, is not directly related to health.

I might say, too—I have said this a couple, three times and I will say it again—a reduction in the increase of payments to Medicare Advantage, the effect of those reductions is a decision made by the officers of that company. They could take those reductions and apply them anywhere. They could reduce their salaries. They could reduce their admin costs. They could take other actions that would reduce the rate of growth, the rate of return of their stockholders. They do not have to take it out of the beneficiaries. That is their choice. They do not have to.

Mr. DODD. Medicare Advantage decides how to use their extra payments to provide benefits. They decide; Congress does not. There is nothing in the legislation that forces plans to reduce benefits at all, rather than reducing profits.

Medicare Advantage is one of the profitable business lines of the private insurance. In fact, the New York Times on November 2—just about a month ago—reported:

Humana, the health insurer, posted on Monday a 65 percent jump in third-quarter profits—

We are talking about private health care. These are profits, a 65-percent jump in profits off this plan—

as bulging membership and premiums from Medicare Advantage overcame a lackluster commercial segment.

I appreciate the fact that people are getting eyeglasses and things. That is wonderful. But we need to be clear about this. These are not the guaranteed benefits, and 80 percent of Medicare beneficiaries get none of these advantages and yet pay more so other people under this private health care plan—because it is subsidized by the American taxpayers—get them.

Again, now we are going to put competitive bidding in place. Our bill allows, under these plans, if they follow and do some of the incentives, to actually share in some of the profits. We are not talking about eliminating all of this plan. We are trying to make it work better for people under the bill.

We have to be honest what we are talking about. This is a private insurance company that is subsidized by the American taxpayers. It is not what, traditionally, people think of Medicare.

Mr. WICKER. Will the Senator yield?

Mr. DODD. I will be happy to yield.

Mr. WICKER. The chairman, when he is calling HHS to change the handbook, also needs to tell them to change their Web site, where it says Medicare Advantage is part of Medicare.

Can the Senator from Connecticut guarantee that under this legislation, the benefits to Medicare Advantage recipients will not be cut? Can he make this guarantee?

Mr. DODD. What I wish to say and what I wish to ask my colleague—

Mr. WICKER. The reason he cannot make this guarantee—

Mr. DODD. Let me claim my time. There is not a single guaranteed benefit under Medicare that is cut in this bill. Not one. I defy any Member of this body to identify a guaranteed benefit under Medicare that gets cut. You cannot find one. Do we cut out gym memberships and things such as that? Yes, that may happen. But on the guaranteed benefits—operative word is "guaranteed"—under guaranteed benefits, there is not a single cut to a benefit. That is why an organization representing 40 million Americans that endorsed the Bush prescription drug plan, by the way, in 2003—hardly a partisan organization as some have suggested today—has basically opposed

the McCain motion and has endorsed the legislation before us today. That organization, I say to my good friend, would never be endorsing a bill that was going to cut guaranteed benefits under Medicare.

Mr. BAUCUS. I wish to say something else to put this in perspective. That is according to analysis of Medicare Advantage plans from Oppenheimer Capital Fund, dated November 12 of this year, between 2006 and 2009. Their estimate is, Medicare Advantage accounted for nearly 75 percent of the increase in gross profits among the larger Medicare plans in the industry.

Let me say this:

... Medicare Advantage ... has been a huge driver—

Quoting from the Oppenheimer Capital Fund—

a huge driver of earnings growth for the industry in recent years. Between 2006 and 2009, we estimate that Medicare Advantage accounted for nearly 75 percent of the increase in gross profits among the larger plans in the industry, highlighted by an estimated gross profit increase of \$1.9 billion in 2009, relative to commercial risk earnings gains—

That is basic health insurance, not Medicare Advantage plans but basic health insurance—

of nearly \$600 million. Medicare Advantage probably won't be as much of a contributor in 2009—

But it is going to be a very large contributor in 2009 because of advantages they get.

Mr. WICKER. It is clear the Senator does not like Medicare Advantage. It is also clear no guarantee can be made that Medicare Advantage benefits will not be cut under this legislation. It is also clear there are tens and tens of millions of American senior citizens who like their Medicare Advantage, notwithstanding the Senator from Montana, and they stand to lose those benefits under this legislation.

Mr. DODD. Let me point out, one of the things we have not talked about, I say to my friend from Mississippi, under our legislation, this bill protects seniors in Medicare Advantage from plans that care more about profits than seniors, trying to pass the buck. Under our bill, it allows the Secretary of Health and Human Services to kick out any plan under Medicare Advantage that significantly increases their premiums or decreases their benefits. Under existing law, that would not happen; under our bill, it does.

It is not about being hostile to Medicare Advantage. It is being realistic about all this and trying to make the tough decisions we have to make about trying to stabilize Medicare, seeing to it we are going to have protections in premium reductions and cost savings, as well as increasing access and quality.

All we are trying to point out is, when you have a Medicare Advantage plan that has run as poorly as this one has, at great cost we now learned—14 percent above, on average; some places it is 50 percent above average—where is the equity. By the way, I say to my

friend from Mississippi, it is a private health care plan that receives subsidies from the American taxpayers, where 80 percent of seniors today pay more and get nothing for it. Where is the equity in this? There is no equity in this. Why should 80 percent of that population pay \$90 or more a year, on average, for a benefit they don't get? Where is the equity?

Mr. BAUCUS. I might add, too, to remind us all, this legislation provides additional benefits for all seniors, including Medicare Advantage recipients—additional benefits. What are they? No copayment for certain preventive care—mammograms, for example, colonoscopies, screening benefits that are not in existence today. There are a whole host of other things that are additional.

This legislation provides additional benefits to Medicare Advantage members that are not there today.

When I say “guaranteed benefits,” I am talking about the usual benefits seniors think of under Medicare. It is hospital care, it is nurses, it is all medically necessary physician care, diagnostic testing, supplies. It is home health care, preventive care, skilled nursing, hospice—all the things that are basically related to health care.

The only thing that might be trimmed back a little is, I call them the fringe stuff, the excesses, such as gym memberships. I wish I had the whole list because some of them are not related.

As I said earlier, they may not be cut. They don't have to be. It is up to the private companies whether to cut. I have nothing against companies making profits. They should make profits. It is our responsibility as Senators to make sure the reimbursement rates Medicare pays providers are fair and reasonable and not excessive. We have been told they are excessive. So we are trying to find a way to make it fairer.

Mr. WICKER. This segment of debate will end at the bottom of the hour, so it is almost over. I appreciate my friends yielding. This debate will continue for days, weeks. I say to my friends, there are Members on their side of the aisle who have come before this body and said these Medicare Advantage cuts are unacceptable. I think they are going to have to have a lot of convincing too. Democratic Members of the House have also come forward. I am not convinced. I don't think they are convinced.

The PRESIDING OFFICER. All time has expired.

Mr. DODD. Madam President, I ask unanimous consent for 2 additional minutes.

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

Mr. DODD. Madam President, let me say to my colleague again that here we have two organizations representing 43 million seniors in our country, and these are organizations that don't just write letters on the fly. They have staffs that examine proposals here, and that is all they do. We have AARP, which is an organization that is highly

regarded and well recognized, representing 40 million seniors in the country, and the Commission to Preserve Social Security and Medicare, which represents an additional 3 million, and that is all they do. This is a totally nonpartisan examination. These two organizations, representing almost 50 million of our seniors, have examined this bill in detail—every dotted “I,” every semicolon, every comma, every proposal—and have done exhaustive research, and they have said: This is a good bill. This bill is deserving of support.

We received a letter today from them. They are not Democrats. They are not Republicans. They are not trying to get an advantage over anybody. They are examining whether this bill stabilizes and strengthens Medicare, puts seniors in a stronger position, is going to see to it that we can extend the life of the program and provide guaranteed benefits that are needed, and their answer was a resounding yes—yes, this bill is deserving of our support.

Again, I appreciate the political debate here, but at some point we have to step back and let those whose job it is to analyze our suggestions and our ideas—just as AARP supported President Bush 6 years ago with his prescription drug bill. They didn't join Democrats or Republicans; they liked the idea—still do—and supported it. Today, they are not supporting us as Democrats. They would reject this bill out of hand if they thought we did something adverse to the interest of their membership. But they said: No, this is a good bill, deserving of support. The two largest organizations in this country representing seniors have said: Get behind this bill. Let's support our seniors. Let's make Medicare stronger and strengthen it. And this bill does it.

That is why we should be joining together, not fighting over this. Medicare Advantage is a private health care plan subsidized by the American taxpayer. Eighty percent of the seniors don't get the Advantage. That is why we are creating these changes in this bill.

I applaud my colleague from Montana, the chairman of the Finance Committee, who did incredible work, along with his staff and other members, in producing this product.

#### RECESS

The PRESIDING OFFICER. The Senate stands in recess until 5:30 p.m.

Thereupon, the Senate, at 4:33 p.m., recessed until 5:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. WHITEHOUSE).

#### SERVICE MEMBERS HOME OWNER-SHIP TAX ACT OF 2009—(Continued)

(Mrs. SHAHEEN assumed the Chair.) Mr. WHITEHOUSE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. 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. WHITEHOUSE. Madam President, I intend shortly to call up an amendment once the procedural posture is clarified and has been cleared on the Republican side, an amendment to protect the Social Security surplus and the CLASS program savings in this act. When I do, I will then ask for its immediate consideration, but at the moment, that is still being worked out from a parliamentary standpoint, so my words will come in advance of that.

I wish to describe the amendment for my colleagues. It is a sense-of-the-Senate resolution that demonstrates the Senate's commitment to meaningful deficit reduction in this legislation while also protecting both the Social Security surpluses generated by the legislation and savings generated from a significant element of the bill, the long-term voluntary insurance program created by the Community Living Assistance Services and Supports Act, what we call the CLASS Act. The amendment expresses the sense of the Senate that surpluses generated by this bill for the Social Security trust fund be reserved for Social Security and that the savings for the long-term insurance program created by the CLASS Act be reserved for the CLASS program.

The CBO has estimated that this bill will save \$130 billion over the first 10 years and roughly \$650 billion over the next 10 years. This amendment stands for the proposition that these impressive savings will be protected vis-a-vis the CLASS Act and the Social Security trust fund.

I wish to speak in particular today about the CLASS Act. This act creates a voluntary insurance program for seniors and individuals with disabilities. This program will enable them to afford long-term care even after they have exhausted coverage offered by Medicare or their private insurer. Let me make clear that this is not a mandatory program. It does not increase taxes on anyone. It is a completely voluntary program that offers an additional insurance option for the disabled. Without such insurance, disabled people often cannot afford the massive costs of long-term care. Under current law, they are often forced to sell their homes or otherwise what is called "spend down" their assets until they meet a poverty threshold before they can begin receiving the help they need.

Certain colleagues on the other side of the aisle have argued that the CLASS plan would lead to a financially unstable entitlement program and would rapidly increase the Federal deficit. That is simply not accurate. The CLASS plan is fully self-sustaining and actuarially sound, funded by the premiums paid by those individuals who

voluntarily opt into this insurance plan. There are no taxpayer dollars involved.

After individuals pay premiums for 5 years, they become eligible to receive a cash benefit of no less than \$50 per day to assist with the various costs associated with the onset of a disability or long-term health condition. These benefits could be used to pay for transportation to work, for instance, or the construction of a wheelchair ramp or the hiring of a personal aide—the sorts of things that so often make the difference between somebody remaining an independent and productive member of society and requiring the support of assisted living or nursing home care.

I think we can all agree that it is in everyone's best interest to try to provide this kind of assistance to people when an unexpected disability begins to affect their lives, to allow them the support they need to continue as best they can in their homes, in their apartments, with their families, at their jobs, and remain, as I said, both independent and productive.

The Congressional Budget Office has concluded that this plan is fiscally solvent. In fact, it projected that the program would be solvent for at least 75 years.

There was a helpful amendment offered in the HELP Committee when we considered and debated and passed that piece of legislation. The amendment was offered by the distinguished Senator from New Hampshire, your colleague, Senator GREGG, the ranking member on the Budget Committee. It passed unanimously, and it ensures and requires that the program be actuarially sound for 75 years.

CBO has projected that, in fact, it would be solvent for at least 75 years. CBO further estimated that the program would reduce the deficit by \$72 billion over 10 years, saving \$1.6 billion for Medicaid during the first 4 years of the program. So it has a substantial fiscal upside.

I am surprised that our colleagues on the other side are criticizing this element of the bill. It seems to run contrary to the findings that have been made by the nonpartisan Congressional Budget Office. It is certainly a stark contrast to their tolerance for their own Medicare Part D Program, the pharmaceutical program the other side touted so proudly, which is different from the CLASS Act in many respects: It was vastly expensive; it was completely unpaid for; it was a massive handout to the pharmaceutical industry, containing within it the, to me, appalling proposition that the government was forbidden by law, forbidden by a previous Congress, to negotiate with the pharmaceutical industry over the price of drugs and had to take it or leave it, whatever the pharmaceutical industry charged. Frankly, it is irresponsible to put the government into that situation. It is fiscally irresponsible, and it is irresponsible from a management point of view. It is irre-

sponsible in more ways than I can name. Yet they happily went that way, the path of fiscal irresponsibility, when it suited the pharmaceutical industry. Of course, in order to do so, they had to leave a hole in the Part D pharmaceutical program for seniors to fall into, what the Presiding Officer knows well and what my colleagues know well as the dreaded doughnut hole that has caused so many unsuspecting seniors so much surprise, chagrin, fear, anxiety, and misery. Now, having been the architects of that program, they criticize the CLASS Act even though the CBO has found it to be fiscally sound.

It seems there is an enormous double standard between programs designed for the benefit of, say, the pharmaceutical industry, or perhaps the insurance industry, and the standards they would apply to programs that benefit people who suffer from the onset of a disability—regular Americans, regular families. This is something that happens to people across this country all the time.

That is really the most important effect of the CLASS Act. As good as it is on deficits, as much as the CBO has confirmed that it is to our fiscal advantage to proceed with the CLASS Act, the most important effect is not on deficits, it is on people.

It is on families. This insurance program will allow disabled people, young and old, to live more financially secure and productive lives, free from the fear that medical expenses will impoverish or bankrupt them, able to make those investments in their own adaptation to their disability so they can maintain the lifestyle, the job, and the home they are accustomed to and comfortable with. Studies show that less than a quarter of private long-term care insurance policies provide a lifetime of benefits. The CLASS Act fills an important void that has been left by the public sector for people who seek this protection and this insurance on a paid-for basis. The CLASS plan is a win-win for reducing costs in our health care system and protecting Americans who require long-term care. Our current system plain fails to protect those who aren't healthy or wealthy enough for private market coverage. It fails to create an opportunity for individuals to plan and save for their future lifetime care needs. It fails to provide a sustainable safety net for individuals who require long-term services and supports to keep the familiar aspects of their life around them—job, family, home, hearth.

I will shortly ask that my colleagues support the amendment when it is called up. It will put the Senate on record as protecting Social Security. It will put the Senate on record as protecting the CLASS Act savings scored by CBO. It will put the Senate on record as supporting the impressive deficit reduction in the bill. I look forward to favorable consideration when we have a parliamentary agreement on calling it up.



I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from New Hampshire.

Mr. GREGG. I appreciate the proposal of the Senator from Rhode Island, but I think it needs to be put in its proper context. This is a sense of the Senate. It has no legal implications. The CLASS Act, as proposed in the underlying bill, was described by the Senator from Rhode Island but not fully. The way the CLASS Act works, it is an insurance program theoretically where people in their thirties and forties and fifties can buy insurance to cover their retirement years when they have to go into some sort of long-term care facility and may be institutionalized. People are paying into this program for decades, maybe four decades, maybe their thirties right into their seventies or their twenties into their sixties. The cost of this program does not actually start to be incurred until these folks move into a long-term care facility or a managed care facility type of situation for their retirement years where they need skilled nursing assistance of some sort.

There is a huge amount of premium that comes in under this program early which goes against virtually no expenses, because this is a brandnew program. It is a startup program. It is created by the Federal Government. It is a government insurance program much like Social Security and Medicare. The practical effect of that is that money will come in for years to the Federal coffers. In the first 10 years of this bill, it is estimated around \$90 billion will come in. In the second, as we move out in the second 10 years, the total over those two periods of 10 years is about \$212 billion. Then more money will come in in the third 10 years, probably somewhere in the vicinity of \$300 billion to \$400 billion potentially. None of this will be spent on the purposes of this insurance, because almost everybody who is paying in for these premiums is going to be too young to go into one of these institutionalized care facilities during those first three decades.

So what happens is that the Federal Government gets this large windfall of money from these people who are paying their premiums and spends it, spends it on something else—education, roads, highways, arts, whatever is the decision on where to spend the money. It gets spent. That is the way the Federal Government works. It doesn't have any place to put this money and keep it safe. It comes in, and it gets spent. When these people retire, when they do go into a situation where they need assisted living of some sort, then the government gets the bill. Not us, not those of us who are here. We will be long retired by then, everybody in this Chamber, except maybe Senator BENNET from Colorado who is rather young and vibrant. The rest of us will probably not be around to take advantage of this. It will be our chil-

dren and grandchildren who will end up with that bill.

That bill will be staggering. We are talking hundreds of billions, if not trillions, of dollars of outyear costs as a result of this type of program; much like Social Security which basically has nothing in the coffers today, even though trillions of dollars have been paid in, but which has a lot of obligations. The same thing with Medicare. That was an insurance program which was supposed to have money in the coffers. Not there. In fact, it goes into negative cashflow and will be insolvent beginning in 2010. There is no money when these folks retire and need it. It will have been spent.

This amendment, well intentioned as a statement, has absolutely no effect on that series of events. That money will still be spent under this amendment. After this amendment is passed—and I presume it will be passed; it is a nonevent amendment having no purpose other than a political statement—CBO will still score this bill as spending that money, absolutely score this bill as spending that money, the \$90 billion for the next 10 years, the \$212 billion for the next 20 years, the \$400 billion after that. That is my guess. The third 10-year period, my guess is \$500 billion. When we get out there 30, 40 years from now and these people expect to get their insurance paid, then when our children get the bill for that insurance, it becomes a tax on them, a direct tax on their earnings. It will affect their lifestyle, their earning capacity, their ability to buy a home, to send a child to college, to buy a car. This money will be spent under this bill.

One of my colleagues on the other side of the aisle who is pretty respected around here on financial matters I believe referred to this CLASS Act proposal as a Ponzi scheme. That is not too far off. Basically, we are taking the money from these folks who buy into this insurance program today. We are spending it on something we want to spend it on as a Congress today, whether it is something worthwhile such as a road or education or our national defense, but we are spending it. We are leaving the people who paid that premium out to lunch unless 30 or 40 years from now, when they go into that situation where they need that insurance, the country is strong enough and our kids are making enough money to pay for the cost of that program. That is a real gamble for them, and that is called a Ponzi scheme, which is exactly what this is. This bill, this sense of the Senate, although a good political document because it allows Members to wander around their districts and say: I voted to protect the CLASS Act dollars, I voted that it not be accounted for under this bill, that was a sense of the Senate. In actuality, it has no effect at all in that area.

All the money that comes into this, insurance money, is going to be spent somewhere else. And the CBO will still

score this bill as taking credit for that insurance under this program. It is Bernie Madoff accounting one more time under this bill. You would think after a while people would get embarrassed—really, it would become embarrassing after a while. When you match up 10 years of tax increases, 10 years of Medicare cuts, to 5 years of programmatic spending and claim you have a program that is fully paid for and is only an \$840 billion program, when you know that if the program, the entire bill is fully phased in, it is \$2.5 trillion in cost. It isn't \$500 billion in Medicare cuts when this thing is fully phased in, it is \$1 trillion in Medicare cuts. It isn't \$500 billion of tax increases in this bill and fee increases on small businesses mostly or on provider groups, it is over \$1 trillion of increases. You would think after a while people would be embarrassed about the manipulation of numbers in that way. But that doesn't seem to occur. Yet we get this proposal that says, OK, let's do it again. Let's claim we are doing something we are not doing. Let's claim we are protecting the dollars that come in under this new CLASS Act proposal, assuming this program goes into place. Let's claim we are segregating them somehow so the people who pay their hard-earned dollars and buy into this CLASS Act think they are getting something for it, when in fact that will not happen at all, is not going to happen at all. That money is going to be spent the day it comes in. In fact, it is already spent. We are already borrowing so much and spending so much in this government right now. We already have an obligation of debt that will spend this money.

I guess everybody can walk away feeling good about this amendment, but substantively, it has no impact at all.

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

Mr. GREGG. I am happy to yield.

Mr. THUNE. My understanding is as to the CLASS Act, to make the deficit situation with the enactment of this bill look better, they argue they are actually going to reduce the deficit as a result of this bill because of the revenues that come in early from the CLASS Act. I think the Senator from New Hampshire has accurately described this. You get a short-term infusion of revenues and another long-term liability which is why the Senator from North Dakota described it as a Ponzi scheme of the highest order, something of which Bernie Madoff would be proud. I guess my question to the Senator would be, how does this impact deficits in the long run and the debt in the long run? There was a lot of discussion around here, probably more rhetoric than action, about doing something to reduce the deficit and deal with the debt that continues to pile up and accumulate and at some point will be handed off to future generations. This Ponzi scheme, as it has been described by the Senator from North Dakota on

the other side, in the form of the CLASS Act does seem in the short term to understate the fiscal impact of the cost of this health bill which, as the Senator from New Hampshire has described, is \$2.5 trillion. But could the Senator elaborate on what happens in the outyears? You talked about the impact down the road when all the bills come due. You get all the revenue in the short term, and then some time down the road that revenue gets spent and you are stuck with all these liabilities. How is this going to affect deficits and debt in those years in the future when our children and grandchildren will have to pay for it?

Mr. GREGG. The Senator has asked a very pointed and appropriate question, because the answer is pretty startling. The point I think most people don't understand is that this money gets spent as it comes in. In other words, let's say over the next 30 years, younger people pay into this new alleged insurance program, accurately described as a Ponzi scheme. All that money that comes in will be spent on other activities of the government and, therefore, the other activities of government will be allowed to grow fairly dramatically. There will be a lot of money here. You are talking potentially \$1 trillion over the next 30 years.

Those expenditures, which will have occurred as a result of this money coming in, which will have nothing at all to do with paying for the cost of the health care which these people who buy into this CLASS Act think they are getting—in other words, long-term care insurance, it has nothing to do with that—it will be on, as I said, education, roads, national defense, whatever we spend it on around here. Those expenditures will be built into the baseline forever. They will presume that there is going to be revenue to pay for them. What happens when that generation that has bought into the CLASS Act starts to actually need the money it is alleged it is going to get? Two things happen. The younger generation is going to have to pay taxes to cover that cost because the money will not be there. There will be no money in the kitty, none, zero. There will be zero money in the kitty, the alleged kitty to pay for this insurance program. Second, ironically, the government will have been grown by all the money that came in and was spent on new programs. So you are basically going to double down on the cost here.

Our children and our grandchildren are going to have to pay twice, not only to pay for the long-term care which allegedly has been promised to these people under these insurance programs but also to pay for all the new spending that will occur as a result of spending the premiums which were supposed to be saved for these programs. So they are going to get hit twice. The implications are, quite honestly, staggering.

We already know we have a \$38 trillion unfunded liability in Medicare. We

know, when you combine Medicare, Medicaid, and Social Security, we have a \$60 trillion unfunded liability. If you calculate in the cost of the CLASS Act on top of that, you are adding potentially trillions more of unfunded liability, which will all have to be paid by our children and our grandchildren.

At the essence of this bill, there are a number of problems, but the problem I find most inappropriate in the way we are doing this is we are creating a government which our kids cannot afford under any circumstance. We are absolutely guaranteeing that our children are going to have a lower standard of living than we had because of the burden we are going to put on them as a result of these expansive new programs, which we know cannot be afforded in the outyears.

We already know we cannot afford the government we have in the outyears. We already know the public debt is headed above 80 percent of GDP by 2019. So the Senator from South Dakota has touched on a core issue. What is the real cost of this? Well, it is extraordinary. As I said, it hits the next generation twice. First, they will have to pay the taxes to pay for the program that was put on the books, which is allegedly there, plus they will have to pay to support all the programs which the money that came in was supposed to be preserved for.

Mr. THUNE. I say to my colleague from New Hampshire, it is the classic definition of a Ponzi scheme, which, as I said, is how it has been described not just by the chairman of the Budget Committee from North Dakota but also by others who have looked at this. Editorial pages in newspapers across this country have looked at this CLASS Act and said it does not add up, and it does not add up. I think Ponzi scheme is a good description.

The Senator from New Hampshire has correctly outlined the impact this will have on future generations, on deficits and debt, and spending and the growth of government. That is why it is such a bad idea to include this. The sense of the Senate resolution is simply that. It has no legal binding effect on spending. It simply is sort of a political statement that makes everybody feel better, but in the end it is going to be our kids who pay.

Mr. GREGG. I think the Senator from South Dakota touched on another point. The sense of the Senate, basically, confirms the fundamental flaw of the CLASS Act. The fact that you would think a sense of the Senate is necessary pretty much proves that everybody around here understands there is a big game going on with the CLASS Act. The problem is, of course, the sense of the Senate has no effect of law and, therefore, the problems the CLASS Act creates in the area of spending, the revenues that come in for the purpose of something other than what the CLASS Act alleges people are buying when they pay for that insurance, will still exist, and the CBO will

still score the CLASS Act as benefiting the budget situation, when it should not be scored that way at all.

As I said, this is a nice resolution from a political standpoint, but substantively it has no effect on correcting the problems which the CLASS Act generate in the area of fiscal policy.

I understand there is a unanimous consent request that somebody wishes to offer. I was asked if I would listen to it.

Mr. DURBIN. Mr. President, does the Senator yield the floor?

Mr. GREGG. I ask the assistant leader, is he offering a unanimous consent request? I will yield the floor for the purposes of a unanimous consent request.

Mr. DURBIN. Mr. President, I ask unanimous consent that the next amendment in order be one offered by Senator WHITEHOUSE of Rhode Island, which is at the desk; that the other matter in order during today's session be a Hatch motion to commit regarding Medicare Advantage; that no other amendments or motions to commit be in order during today's session; and that the time in sequence following this unanimous consent request—I do not want to disadvantage the Senator from New Hampshire, but if it is our turn on this side of the aisle, I would ask that Senator WHITEHOUSE first be recognized for the purpose of calling up his amendment and then I be recognized next, for no more than 15 minutes; and at that point it is my understanding Senator HATCH has asked for the floor for 1 hour on his motion.

If there are any other requests, I would be glad to add them to the unanimous consent request at this point.

Mr. GREGG. Reserving the right to object, my only concern would be that will take us past 7 o'clock, so you may want to adjust the time.

Mr. DURBIN. I am going to finish this as soon as I have gone through my preliminary work here. I also ask unanimous consent that the time until 8 p.m., this evening, be equally divided and controlled between Senators WHITEHOUSE and HATCH or their designees; that it be in order during this time for Members to engage in colloquies, as long as those Members entering into the colloquy remain on the floor.

Mr. GREGG. Is it my understanding, then, the order of recognition will be Senator WHITEHOUSE, the assistant leader, and then Senator HATCH?

Mr. DURBIN. Yes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Rhode Island.

AMENDMENT NO. 2870 TO AMENDMENT NO. 2786

Mr. WHITEHOUSE. Mr. President, I now call up amendment No. 2870, an amendment to protect the Social Security surplus and CLASS program savings in this act and ask for the amendment's immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE] proposes an amendment numbered 2870 to amendment No. 2786.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To promote fiscal responsibility by protecting the Social Security surplus and CLASS program savings in this Act)

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . SENSE OF THE SENATE PROMOTING FISCAL RESPONSIBILITY.**

(a) FINDINGS.—The Senate makes the following findings:

(1) Based on Congressional Budget Office (CBO) estimates, this Act will reduce the Federal deficit between 2010 and 2019.

(2) CBO projects this Act will continue to reduce budget deficits after 2019.

(3) Based on CBO estimates, this Act will extend the solvency of the Medicare HI Trust Fund.

(4) This Act will increase the surplus in the Social Security Trust Fund, which should be reserved to strengthen the finances of Social Security.

(5) The initial net savings generated by the Community Living Assistance Services and Supports (CLASS) program are necessary to ensure the long-term solvency of that program.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the additional surplus in the Social Security Trust Fund generated by this Act should be reserved for Social Security and not spent in this Act for other purposes; and

(2) the net savings generated by the CLASS program should be reserved for the CLASS program and not spent in this Act for other purposes.

Mr. WHITEHOUSE. Mr. President, I yield the floor to the distinguished assistant majority leader.

Mr. DURBIN. Mr. President, I have listened carefully to the profound and eloquent statements from my friend and colleague from New Hampshire, Senator JUDD GREGG. He has frequently invoked the name of the Ponzi family, though I am not personally familiar with them. I believe they have had some skeletons in their closet by virtue of the references that have been made. But I will tell him that what he said about the CLASS Act is inaccurate.

I know that Senator, I see, is leaving the floor. I hope he does not miss out on this conversation. But—

Mr. GREGG. I was just wondering if the Senator would yield for a question.

Mr. DURBIN. I would be happy to.

Mr. GREGG. Is the Ponzi family from Chicago?

Mr. DURBIN. No, they are not. I think they are from New England—Patriots' fans.

I would like to ask the Senator from New Hampshire, if he would yield, if he is familiar with Doug Elmendorf and the Congressional Budget Office and the letter of November 18, 2009, to the majority leader, HARRY REID, in rela-

tion to the deficit impact of the CLASS Act.

Mr. GREGG. I appreciate the assistant leader asking me that question. Regrettably, I am not immediately familiar with it. I have probably seen it, although I apologize for not being immediately familiar with it. Therefore, I presume the assistant leader is going to remind me or at least reacquaint me with its terms. I would note the term "Ponzi Act" did not come from me. It came from the chairman of the Budget Committee.

Mr. DURBIN. I would just say, it is unfortunate the Senator from New Hampshire has not seen this letter because if he had had an opportunity—and it is impossible to read everything—if he had had an opportunity to read that letter, I do not think he would have made the speeches he just made on the floor about the CLASS Act because the Congressional Budget Office tells us that in the first 10 years, the CLASS Act will reduce the Federal budget deficit by \$72.5 billion; in the second 10 years by a substantial amount, though somewhat less than \$72.5 billion; and in the third 10 years—30 years out—it is anticipated it will add to the deficit, but, in the words of the letter from the Congressional Budget Office, by a very small amount over that next decade.

Mr. GREGG. If the Senator would allow me to comment on that one point?

Mr. DURBIN. I would be more than happy to allow that.

Mr. GREGG. I fully agree with that analysis. The first 30 years of the CLASS Act will generate revenues. It will add to the Federal Treasury and will—and that was the purpose of my discussion; that is the point I made—during the first 30 years of this proposal, younger people will be paying in and very few people will be taking out because they will not have yet qualified for the insurance because they will not be old enough to go into assisted living.

Mr. DURBIN. Reclaiming the floor, I would just say, if I understand what the Senator said, he is concerned that in the year 2040, this program may not work as effectively as we had hoped it would work. I trust in the wisdom of future Members of the Senate and the House, if that is necessary, to modify the program.

But it certainly is worthwhile for us to at least reflect on what this program is. It is a voluntary, self-funded insurance fund for long-term care for American citizens. It was one of the visions of Senator Kennedy as part of health care reform, understanding we are living longer and many times need help in our late years in life and it can be expensive and deplete a family's savings. Senator Kennedy said: Let's try to put together a voluntary program where you can pay in and have, in fact, long-term care insurance available to you, if you need it.

The fact that this program is virtually solvent for 30 straight years is

an indication of the wisdom of that idea and the way it is planned.

I might add one other thing. We just finished a motion to commit on the floor relative to Medicare, and many of us argued that the bill before us, the bill that represents health care reform in this debate, protects Medicare and guarantees the basic benefits of Medicare. Those on the other side of the aisle protested and said: No, it does not.

Well, then, Senator MICHAEL BENNET of Colorado offered an amendment which said, pointblank and clearly, nothing in this bill will, in any way, diminish guaranteed Medicare benefits, and a surplus generated here will be to give a longer life to the existing Medicare Program. The Bennet of Colorado amendment passed 100 to nothing, so not only does the bill originally protect Medicare, the Bennet amendment repeated that, and all the Republicans voted for it. Yet they continue to come to the floor and say: We do not believe what we voted for. We believe this bill is going to hurt Medicare.

The same thing is true with the CLASS Act because Senator WHITEHOUSE, who was on the floor momentarily, came forward and said: I will put it in writing. We are going to put it in writing that the surplus in the CLASS Act program cannot be used for other purposes and has to be saved and used for the purposes stated here for long-term care insurance. I think the Whitehouse amendment is likely to get another 100 votes.

So every time we address a concern from the Republican side of the aisle, and say the bill addresses that concern or a separate amendment addresses that concern, they protest: It is not enough. We need more. I think they protest too much.

I would also say I am troubled today, as I have been for several weeks, by the position taken from the Republican side of the aisle about health care reform. For about 13 or 14 days, this bill, in its entirety, has been available to the American people. You can find it by Googling "Senate Democrats" and it will direct you to our Web site and you can click on this bill, H.R. 3590, and read it, page after page—all 2,074 pages of it. That is the way it should be.

There was a lot of angst and worry last August in townhall meetings: Well, are you going to get this bill sneaked by us? Are we going to get a chance to read it? Everybody has a chance to read it. But then I would recommend to those who are searching the Internet to read health care reform bills that if you want to find the Republican health care reform bill, look for "Senate Republicans" and go to their Web site and you will be able to click on "health care reform bill" and you will find the Democratic health care reform bill because, unfortunately, there is no Republican health care reform bill. They have not offered one. They have had a year to prepare

it. They have had plenty of ideas they have expressed on the floor. They have been critical of our efforts. They have offered literally hundreds of amendments in committee, and yet they cannot come up with a bill.

It leads you to conclude this is not an easy task. It is not easy at all. It certainly is not easy to produce a bill such as this one, the Democratic bill, which generates, over the first 10 years, a \$130 billion Federal surplus in our Treasury. This bill adds more in terms of surplus and deficit reduction than any bill in the history of the Senate. In the second 10 years, the Congressional Budget Office says there will be another \$650 billion in savings on our deficit.

So for those who argue if we pass this bill we are going deeper in debt, they ignore the Congressional Budget Office, that referee that takes a look at all the bills and tells us that over the span of 20 years, we are going to reduce our deficit by some \$700 billion or \$800 billion, just by virtue of this bill. Republicans have been unable to produce a bill that reduces the deficit, when it comes to health care, by a penny. They come here and criticize what we have done, but they can't produce a bill. All the great legislative minds on their side of the aisle, and we have been waiting patiently for them to produce a health care reform bill. They can't or they don't want to. Maybe they like the current health care system. Maybe they think this is the way America should be.

Well, many of us don't believe that, and a lot of Americans don't either. There are a lot of good parts of our system we want to protect, but there are many parts that need to be changed. We need to make health care and health insurance more affordable for families and individuals and businesses. This bill does.

We just had another report from the Congressional Budget Office that said yes, the cost of premiums will be coming down for many Americans as a result of this bill. We also understand that some 50 million Americans don't have health insurance at all. This bill will reach the highest level of protection for health insurance in the history of the United States. Ninety-four percent of people in this country will have the peace of mind and security of health insurance—a dramatic increase. The Republicans have been unable to come up with any proposal that moves us toward more coverage for people who don't have health insurance.

This bill also has many provisions to finally give consumers across America a chance to fight back when the insurance companies say no, and they do all the time. People who need critical surgical procedures and medicines, people who need the kind of care their doctors recommend end up fighting with the clerk at an insurance company. This bill, the Democratic health care reform bill, gives these families a fighting chance against these health insurance

companies. I have yet to see the first bill coming from the Republican side of the aisle in the course of this debate that would give our families a chance against these health insurance companies.

I wish to also say when I finish speaking, and we finish on this side of the aisle, the Senator from Utah will come and speak. I understand it is the Medicare Advantage Program he will speak to. Now, the previous motion to commit by Senator MCCAIN of Arizona said: Send this bill back and make sure you take out any reference to savings in the Medicare Advantage Program. That was defeated. The vote was 42 to 58. There were two Democrats who joined the Republicans. They needed 60 votes; it didn't make it. I take it the Senator from Utah may offer another motion to commit relative to Medicare Advantage. I expect it to have the same fate, but he has his chance to argue his point of view, and he may be persuasive to more Members on this side of the aisle. Unfortunately, although we are good, close friends, and I bask in his wisdom on a daily basis, he is not going to change my mind on this issue because the Medicare Advantage Program is a program that needs to be changed.

Let me tell my colleagues about this program. We started years ago with the health insurance industry telling us: Government cannot do a good job when it comes to insurance. Let us show you how private health insurance companies can sell a Medicare policy more cheaply than the government. And we invited them to do it.

Over the course of the years, some of them did. They showed some savings, and they demonstrated to us they could provide Medicare at a cost lower than the government. But then things changed, and the health insurance companies kept coming back and saying: Well, we actually need more money now to provide the same benefits in Medicare that the government provides.

At last count, the Medicare Advantage Program costs 14 percent more to provide the same Medicare benefits as the government program. So these leaders in the private sector who were going to teach us a lesson about how to sell insurance ended up failing their own lesson plan, and now this Medicare Advantage Program has turned out to be a flatout subsidy to the health insurance industry—\$170 billion over 10 years. In other words, the Medicare Program is paying more for Medicare than what it has to pay so it can subsidize health insurance companies which are turning multimillion-dollar profits and giving bonuses to their CEOs.

Some on the other side of the aisle think we need to preserve this; that we need to preserve this subsidy, make sure we protect the profits of the health insurance companies, and we need to protect Medicare Advantage. Well, as Senator DODD has said so fre-

quently on the Senate floor, Medicare Advantage is neither Medicare nor an advantage.

I believe, and most agree, it is time for this party to end. These private health insurance companies didn't keep their word, didn't keep their promise, and because of that we are in a situation—a predicament—where we are asking other people covered by Medicare to subsidize the profits of these private health insurance companies. What does it cost every Medicare recipient in America to provide this subsidy and profits to these private health insurance companies under Medicare Advantage? Ninety dollars a year, on average.

So those who are defending the Medicare Advantage Program as we currently know it and don't support the reforms in this bill are also supporting a \$90 annual tax on Medicare recipients. My fiscally conservative Republican friends who run against taxes every chance they have should reflect on the fact that they are protecting a tax on Medicare recipients. That, to me, is indefensible.

Mr. WHITEHOUSE. Will the assistant majority leader yield?

Mr. DURBIN. I am happy to yield to the Senator from Rhode Island.

Mr. WHITEHOUSE. I just wanted to ask the distinguished assistant majority leader to yield for a question through the Chair. Since the distinguished assistant majority leader was here at the time, and I am newer to this body and was not here at the time when the Medicare Advantage Program was originally proposed, I wonder if the distinguished assistant majority leader would remind us of what the promises and assertions were that were made by the private insurance industry at that time as they sought this foothold to get their hands on this Medicare population.

Mr. DURBIN. It was very basic, I would say to the Senator from Rhode Island through the Chair. They just said: Now, listen. When it comes to insurance, the government never gets it right. The bureaucrats who work for the government, those Federal employees, don't get it right. We do this for a living. We can show you how to provide Medicare benefits and save money. So, please, would you just step aside? The private health insurance companies are going to demonstrate to you how much money we can save.

Initially, there were some savings; I will say that in fairness. But over the years, they got greedy, and their greediness led in most recent times to—I think in 2003, if I am not mistaken, with the Medicare prescription drug program, when they came in and these same private health insurance companies said: Now we really need subsidies to keep offering our wonderful programs, now they tell us they are charging 14 percent more than basic Medicare.

The PRESIDING OFFICER. The Senator from Illinois has used 15 minutes.

Mr. DURBIN. Mr. President, I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BROWN. Mr. President, will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. BROWN. I thank Senator DURBIN for his recollection and Senator WHITEHOUSE for his question and the comments and understanding of this. My recollection was back 10 years ago when it passed it was the insurance companies that said: We will do it 5 percent cheaper. We will save taxpayers 5 percent. But as soon as they did that, as soon as President Bush was elected in 2000, I remember they started lobbying Congress for more insurance subsidies. It sort of peaked in 2003 with the prescription drug deal giveaway where the drug companies and the insurance companies both got huge government subsidies. They formed the doughnut hole, and seniors ended up paying a lot more so the drug and insurance companies could get subsidies. Then that is when the tax was increased, that \$90 tax, if I recall.

Am I right about that, that originally it was actually a good thing for taxpayers, but then during the Bush years the insurance company lobby was able to increase that tax on the other 80 or 85 percent of Medicare beneficiaries, the people who were in what was called fee for service, who would go to the doctor, go to the hospital and submit to Medicare and not do it through a private insurance company? Is that what has happened?

Mr. DURBIN. I would say to the Senator from Ohio that is exactly what happened because what we have is that in order to pay for the subsidy, the private health insurance companies that are selling Medicare Advantage, they had to take the money out of the Medicare system, which meant less money for everybody else. It translated into \$90 a year more for every Medicare recipient to pay for the subsidy, for the private health insurance companies that are protected by Medicare Advantage.

Mr. BROWN. If the Senator from Illinois would yield, so these subsidies then went directly to the insurance companies and then the insurance companies—they had to live under the Medicare laws, of course—but these insurance companies then began to insure generally some healthier people so they could make more money, right?

Mr. DURBIN. That is right.

Mr. BROWN. In those days, the insurance companies—Senator WHITEHOUSE has talked often about this, as has Senator HARKIN who is standing here now too—that the insurance companies' business model has been to hire a lot of bureaucrats. They say they are more efficient than Medicare, but surely they are not. Their administrative costs are 15 percent and Medicare is 5 percent. But they hire all of these bu-

reaucrats to keep people from buying policies if they are sick—a preexisting condition—and then they hire a second group of bureaucrats on the other end to make sure those people who submit bills for their health care, their claims, that 30 percent of them are initially denied. So they hire bureaucrats on both ends to restrict care, add a lot of administrative costs.

Medicare, I don't think, prohibits people for a preexisting condition, right? They don't do anything like that.

Mr. DURBIN. No. I would say to the Senator from Ohio the difference is obvious. With Medicare, anyone who shows up age 65 is eligible for coverage, no questions asked, other than your age and whether you have contributed over the course of your lifetime. These health insurance companies cherry-pick the healthiest people they can, then try to deny coverage where they can as well, and that is how they make their profits.

Mr. BROWN. They are pretty good at it.

Mr. DURBIN. So good at it that they are one of the most profitable sectors in the American economy, and virtually everybody knows somebody they work with or someone in their family who has had a bad experience with a health insurance company in America. That is the reality we are facing today.

Mr. WHITEHOUSE. Mr. President, if I could ask the Senator to yield for a question, it would appear, then, that not only is there this subsidy that goes to the private insurance industry, funded by a tax on all other Medicare recipients, but those private insurance companies are actually doing their level best to try to pick out a disproportionately healthy Medicare-eligible population, so what we end up doing is not only paying more for Medicare Advantage but also for a healthier population. So it is a double subsidy.

Mr. DURBIN. Make it a triple whammy because the third impact, of course, is that the healthier people are not part of Medicare. Those left in Medicare are sicker and more expensive, so the government-run program ends up being more expensive because those private health insurance companies cherry-pick out the healthiest people they can find.

There are those who want to defend Medicare Advantage who think it is great that we would pay \$170 billion in subsidies to these companies over a 10-year period of time. This bill moves us away from that and says if these private health insurance companies can't basically compete and match what government Medicare offers, then it is time for them to get out of the business and get out of the way. I don't see why in the world we are arguing about a subsidy for private health insurance companies when they already make so much money.

So I would at this point yield the floor. I know Senator HATCH has asked for an hour to speak on his motion. I

believe it is a motion to commit. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I thank my friend and colleague who has been making these extraordinary arguments on the Senate floor. I will spend a little bit of time chatting about those in just a minute.

#### MOTION TO COMMIT

Mr. HATCH. Mr. President, I send a motion to commit with instructions to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] moves to commit H.R. 3590 to the Committee on Finance with instructions to report the same back to the Senate with changes that do not include cuts in payments to Medicare Advantage plans totaling –\$120 billion.

Mr. HATCH. Mr. President, I always enjoy my colleague from Illinois. He is as good a populist speaker as we have in the Senate. No matter what comes up, he can talk about it.

I get a big kick out of him saying there are not any Republican bills. Well, there are six of them. You can get a hold of those bills. The problem is, we only have 40 votes, and we know it.

The fact is, the more I thought about it, I thought to myself, where are the printed bills that we always have on our desks? Where is the Democratic printed bill? I am sure it is somewhere. Usually when we debate any bill on this floor, we have the bill printed and put on our desks. Maybe it has been printed, but it isn't on our desks, and I think there is a good reason for it. It is 2,074 pages long. It is enough to make you barf.

When you stop and think about it, why do we need 2,074 pages when 85 percent of persons basically like the health insurance they have? The other 15 percent, if you break it down, you get down to about 7 million to 15 million people who need our help.

By the time you knock off those who work for a company that provides health insurance but they don't choose to take it because they would rather have the money or you take the approximately 11 million people who qualify for CHIP, the Child Health Insurance Program, or Medicaid, but aren't enrolled; or you take those who earn over \$75,000 a year and just won't buy it but can afford it, or you take those undocumented workers or others who are legal aliens who for some reason do not have coverage, you get down to about 15 million people, at most. We can subsidize them, and we wouldn't have to throw our whole system out into the trash can—a system that 85 percent of the American people basically thinks is working relatively well for them.

It seems crazy to me. Why are we doing that? Fifty percent of the people in this country basically don't pay

Federal income taxes as we sit here. The upper 50 percent pay 97 percent of all income taxes. The bottom 50 percent pay about 3 or 4 percent, at the very most. Think about that. What are we going to do—go to 60 percent so that one side can keep the numbers here so they can stay in majority control? Are we going to get people to be more responsible for their own health care?

On top of it all, they want a government plan. Why do they want that? Medicare is the government plan. For all intents and purposes, it is very well-intentioned, but it has \$38 trillion in unfunded liabilities as we sit here—mainly because the Federal Government is running it. If the State governments ran it and we had 50 State laboratories, I doubt seriously we would be in this terrible fix. We are saddling our children and grandchildren and great-grandchildren with tremendous debt. What is their answer? We are going to take \$464 billion—almost \$500 billion—out of Medicare, and we are going to put it towards making our health plan deficit neutral.

They have used every accounting and budgetary gimmick they can to get this plan below \$1 trillion, because they charge taxes from the day it is passed, but the plan is not implemented for 4 years—until 2014. That way, they can try to indicate to the American people that they are bringing the cost of the bill in at under \$1 trillion. That is a lot of money because today we are spending \$2.4 trillion on health care, run primarily by the Federal Government—two-thirds of which is run by the Federal Government. I might add that there are estimates that \$1.2 trillion of that \$2.4 trillion is wasted money. Yet we are going to add another \$2.5 trillion, which is what this bill really costs if you extrapolate it out over 10 years and not just from 2014 to 2020. We are going to spend another \$2.5 trillion, if you extrapolate it out. No wonder the American people are so up in arms. They ought to be. We are going to be spending \$5 trillion on health care if my friends are successful in what they are doing. They know we have 40 votes, at most.

I have been here a long time. Senator LUGAR and I are the most senior Republicans on the floor of the Senate. We came at the same time. I have to say that, having been here all these years, we have never really had a fiscally conservative majority in the Senate, except through great Presidential leadership—Reagan, Bush 1, even President Clinton on occasion, and Bush 2. We have always had enough liberals on our side to go with the liberal Democrats so we have never really had a fiscally conservative majority. It would take 60 votes to get this country under control, from a spending standpoint.

I appreciate the comments of my friend from Illinois about Medicare Advantage, but he is just plain wrong. Medicare Advantage has made a tremendous difference in the lives of almost 11 million Medicare beneficiaries.

He failed to mention that the program has given choice to every Medicare beneficiary across the country, regardless of where they live. Medicare Advantage saves beneficiaries' dollars. Seniors have lower copayments, cost sharing, and deductibles through Medicare Advantage Programs. That is why many lower income seniors participate in the Medicare Advantage Program. Up to 25 percent of all seniors participate. Why? Because it works for them.

I was on the Medicare modernization conference committee. We came up with it because beneficiaries living in rural America did not have access to Medicare HMO plans before Medicare Advantage was created. If my friends will take the time to listen to my statement on Medicare Advantage, I believe they will find it insightful and it will rebut most everything they are saying.

Mr. President, the motion I just sent to the desk is to commit the Reid health care bill to the Finance Committee in order to eliminate the Medicare Advantage cuts of \$120 billion contained in this legislation.

I know I mentioned this point over and over again, but it bears repeating. Throughout the health care debate, we have heard the President say he is not going to mess with Medicare. Unfortunately, that is not the case with the Reid bill we are currently considering. To be clear, the Reid bill cuts Medicare by \$465 billion to fund a new government program. Unfortunately, our seniors and the disabled will suffer the consequences as a result of these reductions.

Throughout my Senate service, I have fought to strengthen, preserve, and protect Medicare. I think most Republicans have, in spite of what my colleagues say on the other side. Unless we are pouring money down the drain, they do not believe we are doing anything. Medicare is already in trouble today. The program faces serious challenges in the future. The Medicare trust fund will be insolvent by 2017. The program has more than \$37 trillion in unfunded liability. The Reid bill will make this situation much worse.

Look at the cuts to Medicare. Hospitals, cut \$134.7 billion in this bill. Where are they going to get that money? How are we going to keep hospitals going in the future? Hospices, cut \$7.7 billion. Nursing homes, cut \$14.6 billion. I have been to all kinds of nursing homes in this country, and they have a rough time. We are going to take over \$14 billion from nursing homes, and they are critical to our senior citizens. For Medicare Advantage, \$120 billion is coming out of the program. Home health agencies, \$4.1 billion. So there is \$135 billion from hospitals, \$120 billion from Medicare Advantage, about \$15 billion from nursing homes, more than \$40 billion from home health care agencies, and close to \$8 billion from hospice providers.

These cuts will threaten beneficiaries' access to care as Medicare

providers find it more and more challenging to provide health services to Medicare patients. And what is their argument? They say it is the awful insurance companies causing these problems. No, it is the awful Federal Government causing these troubles. It is the awful bureaucracy and the awful Federal Government that dominates all of our lives. If this bill passes, "Katy, bar the door." Our lives will be completely controlled by the Federal Government on one-sixth of the American economy.

Today, I want to focus my comments on the Medicare Advantage Program. It has been totally distorted by my colleagues, in my opinion—I am sure not intentionally. They would never do that.

By the way, here is the bill. This is not the printed version; this is the bill. It is no small bill. It is one of the largest I have seen in my time here.

Mr. President, I am strongly opposed to the deep cuts—\$120 billion over 10 years—that the Reid bill would impose on the benefits of almost 11 million Medicare beneficiaries, Medicare beneficiaries who currently are enrolled in the Medicare Advantage Program.

While they knock Medicare Advantage, they are pushing people toward the AARP Medigap insurance program. AARP makes hundreds of millions and billions of dollars off senior citizens. It is small wonder that AARP supports this monstrosity of a bill. It is in their best financial interest.

As we consider the serious threat these cuts pose to seniors, I want to point out that during the Finance Committee markup this fall, we saw Senator BILL NELSON from Florida, and other Democrats, work to partially mitigate the impact of the bill's Medicare Advantage funding cuts. This effort, while taking very small steps, clearly demonstrated that a number of our Democratic colleagues recognize the value offered by Medicare Advantage plans and the danger of enacting the deep cuts proposed by the pending bill. Unfortunately, only a limited number of States would benefit from the Nelson amendment, so most Medicare Advantage beneficiaries are not protected from the cuts. But they recognize how important this program is.

I also recall that 6 years ago, when Congress enacted the Medicare Modernization Act, we intentionally provided new funding to stabilize the Medicare health plan program. This was one of the few issues on which there was strong bipartisan agreement during the 2003 Medicare debate. I was here. I was on the conference committee. I happened to bring about that Medicare Modernization Act. In fact, in June 2003, several of our colleagues, including the Senator from New York and Senator KERRY from Massachusetts—great Democrats—offered a bipartisan amendment on the Senate floor to provide additional funding for benefits under the Medicare Advantage Program. Why would they do that if it



is such a lousy program? Now, all of a sudden, it is a lousy program because they want the money to be used for a massive, new government-run program. Back then, they wanted additional money for Medicare Advantage, recognizing how important the program was.

Later that year, as the Medicare conference committee completed its deliberations, a bipartisan group of 18 Senators signed a letter urging the conferees to provide a meaningful increase in Medicare Advantage funding. This letter was signed by a diverse group of colleagues, including Democratic Senators such as DIANNE FEINSTEIN from California, CHRISTOPHER DODD from Connecticut, RON WYDEN from Oregon, FRANK LAUTENBERG from New Jersey, PATTY MURRAY from Washington, ARLEN SPECTER from Pennsylvania, MARY LANDRIEU from Louisiana, and MARIA CANTWELL, just to mention a few. It was bipartisan. They recognized how important this program was, and they recognized we were trying to solve major problems for people, especially in rural areas.

I think it would be worthwhile to reflect back on the 2003 debate and remember the reasons this issue inspired such strong bipartisan consensus. You don't hear it at all from that side at all—after the program has proven its efficacy and that it works. We supported the Medicare Advantage plan 6 years ago. It was the right thing to do for beneficiaries. The same logic holds true today.

We owe it to the beneficiaries to provide a strong, adequately funded program that provides them with high-quality health care choices. Every Medicare beneficiary can go into Medicare Advantage if they desire, under current circumstances.

During the Finance Committee's consideration of the Baucus health bill, I offered an amendment to protect extra benefits currently enjoyed by Medicare Advantage beneficiaries. Unfortunately, the amendment was defeated. In other words, the President's pledge assuring Americans they would not lose their benefits was not met by either the Finance Committee bill or the Reid bill currently being considered by the Senate.

Here is how supporters of the Finance bill justified the Medicare Advantage reduction: They argued that the extra benefits that would be cut, such as vision care and dental care for these poor people, reduced hospital deductibles, lower copayments and premiums, were not statutory benefits. They claim they were not statutory benefits offered in the Medicare fee-for-service program.

Therefore, those extra benefits did not count, although a quarter of the Medicare beneficiaries were getting them from Medicare. But try telling them that they did not count to a Medicare Advantage enrollee who has been receiving these additional benefits.

I want to talk about the differences between fee-for-service Medicare and

Medicare Advantage. Because of the gaps in traditional Medicare, it is incumbent for most beneficiaries to buy a Medigap policy which wraps around the Medicare benefit. Guess who provides these Medicare policies, among others, but really in a big way. Why, the AARP.

On average, these policies cost a couple hundred dollars a month. In comparison, the average monthly premium in a Medicare Advantage plan is \$54 in 2009. These plans also fill in the coverage gaps of Medicare.

Moreover, almost half of all Medicare Advantage beneficiaries are in plans that charge no monthly premium. Let me say that again. If you have to buy a Medigap policy for traditional fee-for-service Medicare, you will have to buy a policy that costs a few hundred dollars a month compared to Medicare Advantage plans which cost beneficiaries on average \$54 a month in 2009. This is why several studies have shown that Medicare Advantage is one of the most popular choices for the low-income elderly because they do not have to buy a Medigap policy.

This week we have had Members on the other side of the aisle claim that Medicare Advantage is not part of Medicare. That is how far they have gone to distort the record. Again, I hope nobody was doing that intentionally and that it is a lack of knowledge about the Medicare program. Keep in mind, we have Members on the other side of the aisle who claim Medicare Advantage is not part of Medicare. It is absolutely unbelievable. I invite every Member making this claim to turn to page 50 of the 2010 Medicare handbook. It expressly says:

A Medicare Advantage Plan . . . is another health coverage choice you may have as part of Medicare.

That argument has been not only fallacious but should never have been made. The bottom line is simple. If you are cutting Medicare Advantage benefits, you are cutting Medicare. I raised this point yesterday, but I want to raise it again.

Yesterday the distinguished Senator from Connecticut, my friend Senator DODD, mentioned that the bureaucrat-controlled Medicare commission will not cut benefits in Part A and Part B. Once again, my friends on the other side are only telling you half the story. So much for transparency. On page 1,005 of this bill I can hardly lift, it states in plain English:

. . . include recommendations to reduce Medicare payments under C and D.

Let me translate that in English for everybody. That means the commission can cut Medicare Advantage, which is Medicare Part C, and the Medicare prescription drug benefit which is Medicare Part D.

Making sure that we take enough time to discuss a 2,074-page bill that will affect every American life and every American business is the sacred duty of every Senator in this Chamber. We must take the time to fully discuss

this bill, and it is going to take some time, believe me.

I have heard several Members from the other side of the aisle characterize the Medicare Advantage Program as a giveaway to the insurance industry. Let me say a few words about the creation of Medicare Advantage.

I served, as I said, as a member of the House-Senate conference committee which wrote the Medicare Modernization Act of 2003. So did the distinguished Senator from Montana, Mr. BAUCUS. Among other things, this law created the Medicare Advantage Program. When conference committee members were negotiating the conference report, several of us insisted that the Medicare Advantage Program was necessary in order to provide health care coverage choices to Medicare beneficiaries.

At that time, there were many parts of the country where Medicare beneficiaries did not have adequate choices in coverage. In fact, the only choice offered to them was traditional fee-for-service Medicare, a one-size-fits-all government-run health program, which I might add, did not work well. By creating the Medicare Advantage Program, we provided beneficiaries with choice in coverage and then empowered them to make their own health care decisions as opposed to the Federal Government. We gave them the empowerment to make their own decisions. That is unique around here. There will not be any empowerment if this bill passes. In fact, there are almost 2,000 decisions that the Secretary of Health and Human Services has the authority to make. You might like the current Health and Human Services Secretary today, but what if a good conservative gets in that position? Of course, it is very difficult because a good conservative would be filibustered.

Today every Medicare beneficiary may choose from several health plans because of what we did through the Medicare Modernization Act of 2003. We should have learned our lessons from legislative changes made in the Balanced Budget Act of 1997 when we cut payments for Medicare HMOs. These plans collapsed, especially in rural areas, because Washington—our wonderful people here in Washington—decided to set artificially low payment rates. In fact, in Utah, all Medicare HMOs eventually ceased operations because they were operating in the red.

I fear history could repeat itself if we are not careful. During the Medicare Modernization Act conference, we fixed the problem. We increased reimbursement rates so that all Medicare beneficiaries, regardless of where they live, be it in Fillmore, UT, or New York City, had choice in coverage. Again, we did not want beneficiaries stuck with a one-size-fits-all government plan which, by the way, this monstrosity is.

Today Medicare Advantage works. Every Medicare beneficiary has access to a Medicare Advantage plan if they

so choose. One-quarter of them have so chosen, and it has worked amazingly well. Close to 90 percent of Medicare beneficiaries participating in the program are satisfied with their health coverage, but that could all change should this health care reform legislation currently being considered become law. Choice in coverage has made a difference in the lives of more than 10 million Americans nationwide. Beneficiaries in every State have benefitted from Medicare Advantage.

Let me show you some things here. Since this is very difficult to read on television, let me go through all these States. These charts show the number of Medicare Advantage beneficiaries in each state.

Alabama has 181,304 people on Medicare Advantage; Alaska, 462; Arizona, 329,157; Arkansas, 70,137; California, 1,606,193; Colorado 198,521; Connecticut, 94,181; Delaware, 6,661; the District of Columbia, 7,976. How about Florida—946,836, almost 1 million people on Medicare Advantage. Good reason. It works. Georgia, 176,090; Hawaii, 79,386; Idaho, 60,676; Illinois, 176,395; Indiana, 148,174; Iowa, 63,902 people enrolled in Medicare Advantage.

Let's proceed further. Kansas, 34,867 people enrolled in Medicare Advantage; Kentucky, 110,814; Louisiana, 151,954; Maine, 26,984; Maryland, 56,812; Massachusetts, 199,727; Michigan, 406,124; Minnesota, 284,101; Mississippi, 44,772; Missouri, 195,036; Montana, 27,592; Nebraska, 30,571; Nevada, 104,043; New Hampshire, 13,200; New Jersey, 156,607; New Mexico, 73,567; look at New York, 853,387; North Carolina, 251,738 people enrolled in Medicare Advantage who love the program; North Dakota, 7,633; Ohio, 499,819. Gee whiz, that is a lot of people who are satisfied with Medicare Advantage. Oklahoma, 84,980; Oregon, one of the most liberal States in the Union, 249,993; Pennsylvania, 864,040; Puerto Rico, even 400,991; Rhode Island, 65,108; South Carolina, 110,949—these are senior citizens—South Dakota, 8,973; Tennessee, 233,024; Texas, 532,242; my own State of Utah, 85,585; Vermont, only 3,966, but 3,000 people, 4,000 people in Vermont; Virginia, 151,942; Washington, 225,918; West Virginia, 88,027; Wisconsin, 243,443; and Wyoming, 3,942.

These are people who benefit from Medicare Advantage who would not like to lose their current health coverage.

This choice in coverage has made a difference in the lives of more than almost 11 million people, 11 million individuals nationwide and families who benefit from this program. The extra benefits I mentioned earlier are being portrayed as gym memberships as opposed to lower premiums, copayments, and deductibles.

Let me read some letters from my constituents. These are real lives being affected by the cuts contemplated in this bill. You should see some of the beautiful handwriting. Some of it is very shaky but beautiful, to me anyway.

From Cedar City, UT:

Senator Hatch, I am writing you to request your help in preserving our Medicare Advantage plans from being cut.

My Medicare Advantage plan provides me with benefits and savings that traditional Medicare did not provide.

I like my plan very much. It allows me my choice of Doctors, Hospitals and various specialists if needed.

I do not want to see a single national Health Care Plan.

I do not want cuts in Medicare Advantage Programs.

Senator Hatch, when you go to Washington, DC, please do not cut our Medicare Advantage Programs.

Vote to maintain our present system. Thank you for your service.

Sincerely, P.S.—I speak for my husband, too.

I bet.

Here is another one:

Honorable Senator Hatch: Please do not vote for any bill which would compromise my Medicare Advantage plan. I am 92 years old, and of necessity worked until I was 87, and have taken pride in being self supporting. I had to retire six and a half years ago because of pancreatic cancer. Amazingly, I recovered and live an active, useful life. My Medicare Advantage plan makes the difference between living with self respect and having to depend on others. Once again, I beg of you—don't deprive me of my self respect. Let me keep my Medicare Advantage plan. Sincerely.

Here is another one:

Dear Senator, we understand our President and Congress wants to eliminate the Medicare Advantage program for the elderly.

We were both on Blue Cross/Blue Shield program for several years, costing us hundreds of dollars each year. Since we joined the Medicare Advantage program it provides dental, fitness, vision, and full medical coverage. The cost of this program has saved us hundreds of dollars.

Please don't let them take this program from the elderly who are on low fixed incomes and will cause us further problems. We ask you for your support to save the Medicare Advantage program.

Here is another one:

Dear Senator Hatch, it has again been brought to my attention that the Administration is seriously considering cutting the funding to the Medicare Advantage program. I would like to encourage you to oppose these funding cuts because of the negative repercussions seniors and those with disabilities will suffer if they lose a program due to insufficient funding.

[Medicare Advantage] health plans give individuals the freedom to afford the care they need. The premiums and out-of-pocket costs are allowing recipients to save money on regular doctor visits as well as medication. These savings are essential for someone on a low fixed income like many of the individuals who participate in the program.

If Congress continues to cut the [Medicare Advantage] program, beneficiaries will not only be forced to pay higher premiums and higher out of pocket costs but will also lose the unique benefits that the [Medicare Advantage] health plans offer, such as disease management and preventive care, which reduce their daily discomforts and help them avoid unnecessary hospital visits.

What about this one?

As a retired voter in your state, I would ask you to please do all that you can to eliminate the proposed cut in Medicare Advantage funds in the proposed Senate bill.

You have demonstrated the sensitivity for the elderly in our state. I hope you continue to take our needs as fixed income residents into consideration.

How about this?

I am greatly concerned about efforts to reduce benefits to the Medicare Advantage plans. I am a member of the Humana plan. It has been working for me because of the low premiums, low deductibles and co-pays, wellness and enhanced preventive benefits, and coordinated care and disease assistance programs. I have been unemployed for over a year now for several reasons, among them my age, I am sure. I received a monthly \$527 social security check as my only income. I can survive only because I am living with my son and family. Please do what you can. Thanks so much.

Here is another one:

Dear Senator, I realize times are tough, but my medicare advantage plan through DMBA is a real blessing to me. I'd like to think that with all the talk of health care change, that plans that are working now would not be abandoned, or at least replaced with something as good, or better. Please think carefully and with sincere prayer, about the consequences to old retired people like me, before you vote on these issues. Thank you.

He recommends that I pray—which I do—about this.

Here is another one:

We like the Medicare Advantage Plan. Seniors need to have a choice in health care, and help in keeping that program. Medicare seems to always be cutting benefits for seniors. Have you talked to seniors lately? Doctors are not accepting anyone on Medicare and turn them away. This is an issue that needs to be addressed in health care. Keeping the Medicare Advantage Plan helps doctors accept a patient that has Medicare. Without an additional supplemental plan, seniors are in trouble with health care physicians. Please don't cause more suffering for seniors by cutting the Medicare Advantage programs.

Here is one:

Senator, we implore you to not allow the Medicare Advantage Plan to be compromised. As seniors, on fixed incomes, my husband and I find the monies, which have soared in 2009/2010 to allow us to participate in the Medicare Advantage Plan. Please see that this plan will remain available to all seniors with the same coverage. Sincerely.

Here is one:

As retired, fixed income, senior citizens we benefit by and rely on a Medicare Advantage Plan. We cannot afford the premiums that the Medigap insurance would cost if the Advantage Plans were not available. If not for our Advantage Plan, we would now be financially destitute because of the cost of my husband's health care these last 2 years. Without our Advantage Plan, we would not be able to afford yearly physical exams and preventive care. We also benefit from the Silver Sneakers exercise program as part of our plan. Senator Hatch, we urge you in any new health care plan, to: Keep Medicare Advantage Plans available; provide no government option/single payer; give no health care for illegals; fix the existing health system before adopting something new.

Here is another one:

Medicare Advantage Plans work great. Please don't let President Obama take them from us.

Here is another one:

We are Republicans from the State of Utah. Our concerns have to do with the

Medicare Advantage Program as offered currently to senior citizens and participants in Medicare. Part of this plan includes our participation in the Silver Sneakers Program which gives us the opportunity to use the local recreation center in Roy, UT. Our current Medicare Advantage Program covers the cost of the Silver Sneakers Program. Daily use of the Roy Recreation Center would be prohibitive to us if we had to carry the burden of the cost of this program. Thus, we encourage you to keep in mind these concerns as any health plan is proposed in Congress over the next few months. Thank you for your consideration in this matter. Please let us know your position in this matter.

How about this one?

I would like you to support the medicare advantage system and vote against any cuts to the advantage system. I am a member of the Humana Advantage program and very happy with the program. They provide additional benefits over Medicare with no additional cost, which is a direct financial advantage to seniors.

Let me just read one more. I have so many of these I could go on for hours, but let me just read one more.

I'm very concerned about the President's determination to do away with "Medicare Advantage." My coverage is with DMBA, which is a nonprofit. It is my understanding DMBA actually pays some medical expenses over and above what Medicare authorizes. In addition, they administer the whole plan, which means I don't have to deal with Medicare directly. I feel that the amount of premium I pay to DMBA is worth these benefits. I'm willing to bet that Medicare costs will increase, if they have to start spending time dealing with seniors who currently have this kind of third party intervention. If there are really 10 million seniors who have "Medicare Advantage," how can any of the members of Congress vote to eliminate it? Thanks, so much, for your time and efforts.

Well, I think that last letter kind of sums it up. How can anybody vote to do away with the Medicare Advantage Program?

Just to be clear, the SilverSneakers Program—which has been much maligned by the other side, who helped to enact the program, and who talk about prevention and care all the time—is one that has made a difference in the lives of many seniors because it encourages them to get out of their homes and remain active. It has been helpful to those with serious weight issues and valuable to women suffering with osteoporosis and joint problems.

In fact, I have received several hundred letters telling me how much Medicare Advantage beneficiaries appreciate the program. I would like to read a couple of those letters at this time, if I can. I will just read a few of them because there are many letters.

I recently have suffered from a heart attack and now receive treatment as a member of the Silver Sneakers. Being a part of the Silver Sneakers has helped my life immensely. The treatment I receive at the Silver Sneakers has readily increased my quality of life after my heart attack. I hope the funding for Silver Sneakers is not cut.

Well, that is Medicare Advantage. Here is the last I will read on the list.

I would like to express to you the need for the SilverSneakers program to continue. I have participated in this program for about

3 years now. I cannot begin to tell you the difference it has made since joining the program. I have not felt better health wise since joining the SilverSneakers program. My overall wellbeing both physically and mentally have improved. I go to the gym 3 times a week. I look forward to this physical activity. I feel physically better and my joints and body are in better shape than ever. I feel I have improved my immune system and go to the doctor less than when I did not participate in this program. I am retired with a fixed income and it would be difficult for me to have to pay for a gym membership if this program were to be eliminated. So I ask you to please consider keeping this program.

Look, the SilverSneakers Program is a prevention and wellness program, and almost all of us—if we are really honest about it—would admit that if we could get our seniors out there walking and exercising and doing the things that will help them to stay vibrant, alert, and physically well, it would save us billions of dollars. It is a very well-thought-out program, but it is a small part of Medicare Advantage. I thought I would cover it since it has been so maligned by some. If you read at least the HELP bill, there are a lot of provisions on wellness and prevention.

Well, in conclusion, I cannot support any bill that would jeopardize health care coverage for Medicare beneficiaries, and I surely believe if the bill before the Senate becomes law, Medicare beneficiaries' health care coverage could be in serious trouble.

I have been in the Senate for over 30 years. I pride myself on being bipartisan. I have coauthored many bipartisan health care bills since I first joined the Senate in 1977. As much as anyone in this Chamber, I want a health reform bill to be enacted this year. Every Republican does. But we want it to be bipartisan. We want it to be something both sides can support, such as the CHIP bill, which had a huge bipartisan vote. This is one-sixth of the American economy. If it doesn't get 75 to 80 votes, it is a lousy bill. I want it to be done right. History has shown if it is done right, it needs to be a bipartisan bill that passes the Senate with a minimum of 75 to 80 votes.

We did it on the CHIP bill and on Hatch-Waxman. We did it on a whole raft of bills in which I have been a major player. There has never been a bill of this magnitude affecting so many American lives that has passed this Chamber on an almost straight party-line vote, or maybe just a straight party-line vote.

The Senate is not the House. This body has a different constitutional mandate than the House. We are the deliberative body. We are the body that has, in the past—and should today—worked through these difficult issues to find clear consensus. True bipartisanship is what is needed. In the past, the Senate has approved many bipartisan health care bills that have eventually been signed into law. I mentioned a few: the Balanced Budget Act of 1997 which included the CHIP program—that was a Hatch-Kennedy bill—

the Ryan White Act, I named the bill after Ryan White who died from AIDS, with his mother sitting right in the audience. I stood on the Senate floor and named it the Ryan White Act. And the Orphan Drug Act, the Americans with Disabilities Act, the Hatch-Waxman Act, which created the modern generic drug industry. These are just a few of the success stories. I could go through many, many others.

If the Senate passes this bill in its current form with a razor-thin margin of 60 votes or thereabouts, this will become one more example of the arrogance of power being exerted since the Democrats secured a 60-vote majority in the Senate and took over the House and the White House.

I dream someday of having the Republicans having 60 votes. I tell you one thing. I think we would finally have the total responsibility to get this country under control, and I believe we would be successful. There are essentially no checks or balances found in Washington today, just an arrogance of power with one party ramming through unpopular and devastating proposals one after the other.

Let me talk now about other negative impacts of this bill, at a time when we are in a terrible recession, with the current unemployment rate at 10.2 percent. And if you take away some of the part-time and some of the other statistics, we are at an effective 17 percent unemployment rate.

The Reid bill is a job killer. It has a disproportionate impact on small businesses. This 2,046-page bill contains nearly one-half trillion dollars in new taxes, fees, and penalties that will disproportionately affect small businesses, which are the job-creating engine and the lifeblood of our economy. Seventy percent of all jobs are created by the small business sector, and actually more if you really look at it.

According to a recent National Federation of Independent Businesses Survey, at least 50 percent of small businesses pay taxes at the individual level through owners that report income of more than \$200,000 and will be hit hardest under the Democratic tax-and-spend plan with their mandate—their job-killing employer mandate—in this bill. This is small business. This is not the large corporate world. It is small business where most of the jobs are generated. Every dollar lost to new taxes on these businesses will be a dollar taken away from job creation.

The Reid bill includes a job-killing employer mandate. More specifically, it contains a \$28 billion new tax penalty on employers for failing to provide coverage. Economists and CBO both agree that this will hurt employee wages and job creation. That is economists and CBO—the Congressional Budget Office. According to the Congressional Budget Office, although this new tax is levied on the employers, it is the "workers in those firms who would ultimately bear the burden of those fees" in the form of reduced compensation.

The Center on Budget and Policy Priorities has stated that the employer mandate will have a disproportionate impact on hiring practices for low- and moderate-income families. This is the most important segment in need of help.

The Reid bill increases the Medicare payroll tax. In fact, it imposes a \$54 billion payroll tax increase at a time when we as a nation are struggling with an unemployment rate of 10.2 percent and an underemployment rate that I have been speaking about of 17.5 percent.

In addition, the Reid bill fails to lower premiums. Instead of lowering skyrocketing health care premiums for small businesses across the Nation, this \$2.5 trillion bill, according to the Congressional Budget Office, will largely maintain the status quo of 5 percent to 6 percent yearly increases in premiums for small businesses. Why? A combination of heavyhanded regulations and a laundry list of new taxes on everything from health plans to prescription drugs, to medical devices which, according to the Joint Committee on Taxation, will simply be passed on to the consumers.

The Reid bill creates another brandnew Washington-run plan. This Washington-run plan comes at a time when families and businesses with private insurance are already paying as much as \$1,800 a year more in premiums, which is nothing more than a hidden tax to make up for the underpayment by government programs such as Medicare and Medicaid to health care providers. It is no secret some doctors are not willing to take Medicare patients and even Medicaid patients because of the reimbursement rates, among others things, because of the bureaucracy—the bureaucratic problems. Creating another government-run program will only increase this hidden tax on families and small businesses to keep the private coverage of their choice, and I believe it is important for my colleagues to hear what businesses are saying about the Reid bill.

The National Federation of Independent Business, the premier small business organization in the country, says:

The Senate Bill Fails Small Business.

The U.S. Chamber of Commerce:

U.S. Chamber stresses disappointment with Senate health bill.

The National Association of Wholesaler-Distributors:

Wholesaler-Distributors say “No” to the Reid Health Bill.

The Small Business Entrepreneurship Council:

Small Business Group Says Reid Health Bill More of the Same: More Taxes, Mandates, Big Spending and Nothing to Help Lower Health Insurance Costs.

The Associated Builders and Contractors—great employers in this country:

ABC Critical of Senate Democratic Health Care Bill.

The National Association of Manufacturers:

NAM says Congress is Taking Health Care Reform in the Wrong Direction.

The Independent Electrical Contractors sent a letter of opposition to every Senator.

The International Franchise Association:

Franchise Businesses Oppose Senate Healthcare Reform Efforts.

There is a better way to handle health care reform. For months, I have been pushing for a fiscally responsible and step-by-step proposal that recognizes our current need for spending restraint, while starting us on a path to sustainable health care reform. There are several areas of consensus that can form the basis for sustainable, fiscally responsible, and bipartisan reform. We have a lot of ideas over here for reforming the health insurance market for every American by making sure no American is denied coverage simply based on a preexisting condition; protecting the coverage for almost 85 percent of Americans who already have coverage they like by making that coverage more affordable. This means reducing costs by rewarding quality and coordinated care, giving families more information on the costs and choices of their coverage and treatment options, discouraging frivolous lawsuits, and promoting prevention and wellness measures.

By the way, the other side is not willing to do anything on tort reform that some estimate may be costing us as much, in unnecessary costs, as \$300 billion a year.

Giving States flexibility to design unique approaches to health care reform. Utah is not New York and New York is not Utah.

As we move forward on health care reform, it is important to recognize that every State has its own unique mix of demographics and each State has developed its own unique institutions to address its challenges and each has its own successes. I believe in 50 State laboratories, where the States may be given the money by the Federal Government, but they solve their own problems with their own demographic needs and fitting their own demographic needs, rather than a one-size-fits-all big Federal Government program which is what this bill creates.

There is an enormous reservoir of expertise, experience, and field-tested reform in the States. We should take advantage of those experiences by placing States at the center of health care reform efforts so they may use approaches that best reflect their needs and challenges.

My home State of Utah has taken important and aggressive steps toward sustainable health care reform. The current efforts to introduce a defined contribution health benefit system and implement the Utah health exchange are laudable accomplishments. A vast majority of Americans agree that a one-size-fits-all Washington solution is

not the right approach. That is what this bill is bound to foist on us.

Unfortunately, the path we are taking in Washington right now is to simply spend another \$2.5 trillion of taxpayer money to further expand the role of the Federal Government. I do not know many people who believe that is what we should do. I wish the majority would take a step back, put their arrogance of power in check, and truly work on a real bipartisan bill that all of us can support, or at least a good percentage of us can support—not just one or two Republicans.

The first step in achieving bipartisanship is to support my motion to commit this bill so Medicare Advantage beneficiaries may keep the benefits they currently enjoy through Medicare Advantage plans. To me, it is only fair that the legislation we are currently considering hold true to the President's promise to the American people that if they like what they have they may keep it.

I urge my colleagues to support my motion to commit so that promise will also apply to Medicare Advantage beneficiaries who have benefitted greatly from what we did in a bipartisan way just a few years ago. I might add, some of these outside groups have a stake in killing it because they can make more money on senior citizens. It is not hard to see why they are behind this great big, huge 2,074-page monstrosity of a bill. No wonder they don't place this bill on every desk. Maybe they will. When they do, they will probably put two pages on one sheet so it will look a little bit smaller.

But it ought to be on every desk. We can even thumb through it while we are debating and while others are talking. Think what that would do for all of us Members of the Senate if we thumbed through some of the things we are doing to America. Remember, this is one-sixth of the American economy. We could wreck our country with this bill if we pass it. By passing it, we would turn our future 100 percent over to the Federal Government that has already put these two wonderful programs, Medicare and Medicaid, almost in bankruptcy. Those programs can be better, there is no question. But they are run by Washington, so naturally we are going to call on taxpayers, over and over again, to fund the excesses these bureaucracies in Washington impose on all of us.

The PRESIDING OFFICER (Mr. BEGICH). The time of the Senator has expired.

Mr. HATCH. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. I know the Senator from Pennsylvania wishes to speak very shortly, and I will yield to him when he is present on the floor. But I did wish to react to two points that were made by the very distinguished Senator from Utah. I say that with true sincerity. He has been a friend to me since I have been in the

Senate. He sets a very valuable standard in this institution for collegiality and dignity and bipartisanship and scholarliness, and he comes from an extremely distinguished career, prior to his distinguished career in the Senate, as a lawyer, a leader of the Utah bar.

But I do think that, as easy as it is to make fun of a 2,074-page bill, the House bill, which is not significantly different in scale from this bill, was reviewed. If you look at the substantive language in it—in a bill, of course, there is a lot of language that simply connects things into place and is tables and indexes and things such as that. If you look at the actual language you would read if you were interested in the substance of the bill on the House side and do a word count on it, it has fewer words than a “Harry Potter” novel. I don’t think it is too much to expect that Members of the Senate should be prepared to leaf through the equivalent of a “Harry Potter” novel when they are embarking on as significant an effort and endeavor as we are in reforming the health care system. I think it was about 256,000 words, if I am not mistaken. It is smaller print, admittedly, than a “Harry Potter” book because of the way in which the bill is presented in its traditional format. It is very few words per page, so it looks big and one can make very entertaining demonstrations with it on the floor. When you actually get down to reading it, it is about the same as plowing through—actually less than plowing through a “Harry Potter” novel, and I don’t think that should be too much to expect.

I also suggest the reason for the lack of current bipartisanship on this bill might very well be the arrogance of power of the Democratic majority—it might be. But I would suggest the facts might also support a different hypothesis. If you look back at the history of the development of this bill, it began on a very bipartisan note. It began with Senator BAUCUS’s “prepare to launch” program at the very beginning of the year, a full-day, bipartisan effort to begin to focus on the delivery system reform issues. It began with a bipartisan group negotiating in the Finance Committee. It began with a HELP Committee bill that allowed for 161, I believe was the number, Republican amendments in a very open and completely bipartisan process.

Then along came August and the townhall meetings and the beginning of the radicalization of the Republican Party. We heard, out of that process, charged buzz words such as “death panels,” “socialized medicine,” “benefits for illegal immigrants,” “rationing of care”—all these words that incite and inflame passions but make no reasoned case and advance no helpful alternative.

We saw those words and those arguments presented with a crudeness and a venom that are frankly new to American politics; for example, the President portrayed with a Hitler mustache.

I don’t recall, for 8 years, President Bush ever being portrayed with a Hitler mustache. Poor President Obama comes in and within his first months people are running around America portraying him with a Hitler mustache because we want to reform health care.

Certainly, there are a great number of us who believed President Bush was less than truthful when he came and spoke to us about Iraq and other subjects, but nobody yelled out “You lie.” In President Obama’s first appearance, he was heckled from the floor of the Congress of the United States.

This September, after the tea bag group and after the townhall death panel group had become active, 179 Republicans in the House of Representatives of the Congress of the United States voted to support their heckler comrade.

Something changed with the radicalization of the Republican Party, and I am not the only one to have noticed this. A very well-regarded Philadelphia columnist wrote recently of the Republican right:

If they can get some mileage . . . nothing else matters.

The columnist went on to decry what he called “the conservative paranoia” and “lunacy” afoot in our national debate.

The editor of the Manchester Journal Inquirer editorial page wrote of the GOP, which he called “this once great and now mostly shameful party,” that it “has gone crazy,” that it is “more and more dominated by the lunatic fringe,” and that it has “poisoned itself with hate.” He concluded, they “no longer want to govern. They want to emote.”

The respected Maureen Dowd of the New York Times, in her column eulogizing her friend, the late William Safire, lamented the “vile and vitriol of today’s howling pack of conservative pundits.”

A Nobel Prize-winning economist has said:

The takeover of the Republican Party by the irrational right is no laughing matter. Something unprecedented is happening here, and it’s very bad for America.

A well-regarded Washington Post writer with a quarter century of experience covering government and politics, married to a Bush administration official—we are hardly talking about commentary from the leftward fringe—has noted about the House health care bill and the arguments surrounding it “the appalling amount of misinformation being peddled by its opponents.” She called it a “flood of sheer factual misstatements about the health-care bill.” She noted that “[t]he falsehood-peddling began at the top” of the Republican Party. Her ultimate question was this:

Are the Republican arguments against this bill so weak that they have to resort to these misrepresentations and distortions?”

Even the respected head of the Mayo Clinic has recently described the health care antics we have witnessed as “mud” and “scare tactics.”

It is possible, as the distinguished Senator from Utah suggests, that the reason bipartisanship is elusive is because Democrats have been gripped by the arrogance of power. But as somebody who has been witness to intense efforts to try to recruit Republican support for this bill, the evidence at least as well supports the theory that something has happened to the Republican Party in the past months, as the radicalized Republican right has emerged and taken over and provoked all of these responses from respected, neutral, seasoned veterans observing the political scene. I suggest that is at least a possibility.

I would like to change topics for a moment, given that Senator CASEY is not present, and make an additional point that I believe merits mention. I will yield as soon as he appears to have arrived.

Mr. HATCH. Will the Senator yield for a second?

Mr. WHITEHOUSE. I am delighted to yield.

Mr. HATCH. I would like to have a few minutes to wrap up.

Mr. WHITEHOUSE. Of course. How long would the Senator wish?

Mr. HATCH. I think I can do it in less than 5 minutes.

Mr. WHITEHOUSE. I yield 5 minutes to the distinguished Senator from Utah right now.

The PRESIDING OFFICER. The Senator from Utah.

Mr. WHITEHOUSE. Would the Senator yield back for one moment?

Mr. HATCH. Surely.

Mr. WHITEHOUSE. I had the opportunity to be on the floor yesterday, and the time was all under agreement. My time was concluded, and I was leaving the floor. The Senator from Utah had the occasion to offer some very kind words about me. Because of the procedural posture we were in, I did not have the chance to reply or respond at that time. This is the first time we have been on the floor together since then, when I have had the chance to have the floor, and I do want to let him know how much I value what he had to say. I know there are very well-established standards of protocol here in which we say nice things about each other, but I felt that what he had to say was not just protocol but was sincere and heartfelt, and it really does mean a lot to me and is reciprocated on my part.

I think Senator HATCH brings enormous, as I said earlier, dignity, erudition, principle, collegiality—many good characteristics to the floor. He is a force for good in this body, and I am delighted to have him count me a friend.

I yield him the next 5 minutes.

Mr. HATCH. I thank my colleague. I appreciate the eloquence of my dear friend. I am going to find fault with some of the things he said, but I have to say I am grateful to have the distinguished Senator from Rhode Island with us. He is one of the great additions to the Senate, in my opinion, a

very good lawyer who has had tremendous experience in State government. It is amazing to me that he is supporting this awful bill, this monstrosity of a bill. But I can live with that. I have seen a lot of decent, honorable people be deceived by their desire on the Democratic side to continue to build the Federal Government at the expense of the States and everybody else. I will say this: I really enjoy my colleague. I have a lot of respect for him.

I have to take issue with his "Harry Potter" comments. Just think about that. I like the fact that the distinguished Senator from Rhode Island compares this bill here to a "Harry Potter" novel. That is, perhaps, pretty appropriate because both of them are what I consider to be works of fantasy and fiction. This thing has 14 pages as a table of contents alone. Notice how my voice goes up as I am holding it; it puts that much pressure on your speech diaphragm. I just wish it was as valuable and would be as valuable to the American people as the "Harry Potter" novels have been.

Let me say one last thing before I close and leave the floor. I appreciate my colleague. I appreciate his graciousness in all ways. We have worked closely together on the Intelligence Committee and the Judiciary Committee and in many other ways. I think he is one of the great additions to the Senate. In spite of his dogged determination in support of this awful bill, I still think greatly and very highly of him.

Let me make a few things clear to my Democratic colleagues. I am not a great believer that we should follow polls at all, but I think it is interesting to see what the American people are thinking. My colleagues seem to think that some of these people who did the tea parties and some of these other things are rightwing crazies. I know a lot of them. They are really good people. They are up in arms, and they are really upset. They are people from all walks of life. Some of them are very far right. Some of them are far left. The fact is, they are sincere. They feel what is going to happen here is a denigration of the country.

Unfortunately, I feel the same way. The more we rely totally on the Federal Government, the worse off this country will be. My colleagues love the Federal Government. I love it too. I would love to keep it in its place. It is much easier to control things when you control them through Washington. However, it is also a way of stifling good ideas if you do not have the best benefits of the 50 State laboratories that our Federalist system actually provides.

I noticed in a recent Gallup poll, 53 percent of the Independents are opposed to this bill. Gallup has been polling for years, is it not Republican or Democratic. These are Independents.

Thirty-seven percent support the bill. These are not radical Americans, these are Independents. They are just tired of the tax-and-spend policies of Washington, DC. There are people in both parties who are guilty of pushing for those types of policies.

I have to say Democrats are much better at spending Federal dollars than Republicans in the sense that they spend a lot more of them. Democrats are not better in watching them either.

Even a Kaiser poll, which is anything but conservative, had 59 percent of the people in this country opposed to this bill.

If I were a Democrat, I would be a little concerned about the Independents. They are not crazies. They are not people who are out of line. And neither are these conservatives who are up in arms.

I recently met with a number of the tea party representatives in Utah. They are fiscal conservatives. They are very concerned. I also met with representatives of the so-called 912 Group. They are more concerned with social issues as well as economic issues. They are well-intentioned, well-thought-out people who are sick and tired of what is happening here in Washington. The only way they can really get their ideas heard is by raising cane about it. Frankly, I think they are right to do so.

We all better stop and take a look at these things and see if we can, as honest, decent Democrats and honest, decent Republicans, get together to come up with a bill that has broad bipartisan support of at least 75 to 80 Senators. I would like it to be more. But that is what we need to do. This current bill is not the way to get there.

I thank my colleague for his gracious remarks about me. I feel exactly the same about him. He is a good colleague, a wonderful attorney, and a great addition to the Senate. I intend to work with him in every way I can. I just think if he would just tell his side: We are going to sit down, we are going to work this out, I think we would get it done.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I see the distinguished Senator from Iowa as well as the distinguished Senator from Pennsylvania. Whichever one of them would like to proceed, I am prepared to yield. It looks as if it will be the distinguished Senator from Iowa.

I had the very great honor of serving on the HELP Committee during the time that the HELP Committee section of this bill was prepared. One of the most vital and important elements of this bill is its new focus on wellness and prevention to help Americans stay healthy so that it truly is health care and not just sick care, so that the medical establishment is not incited to add more and more tests and proce-

dures because that is what they get paid for but won't have an e-mail contact or won't have a phone call to help talk a patient through something because they can't get reimbursed.

The potential value of wellness and prevention in this country is astonishing. It has been underinvested in because the people who are responsible for making those choices really don't get the benefit of them under our present perverse system.

The Senator from Iowa has shown great leadership. He is now chairman of the HELP Committee, but he certainly chaired, through the committee deliberations, the health and wellness portions. It was my honor to watch him in action and see the astonishing results he achieved.

I yield the floor to him and ask unanimous consent that at the conclusion of the remarks of the distinguished Senator from Iowa, the Senator from Pennsylvania, Mr. CASEY, be recognized.

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

The Senator from Iowa.

Mr. HARKIN. Parliamentary inquiry: What rule are we under right now? How much time do we have? Are we under any time constraints?

The PRESIDING OFFICER. Under the previous order, the Senator controls the time until 8 p.m., approximately 15 minutes.

Mr. HARKIN. Mr. President, first I wish to thank my colleague for all the work he did in our committee. I am sorry he is not still on our committee. I wish he were. But a lot of the good work we have in our bill is due to Senator WHITEHOUSE's involvement in the development of this bill. He was a great member of our committee, and as the chairman, I sure wish he would come back. That is all I can say.

I say to the Senator, thank you for all the great work you did on this bill and especially all the wonderful work you did on getting us the public option that we had in our bill that was adopted by the House but also all the great work you did on making sure we had a robust prevention and wellness program in our bill. I have always said that the best way to bend the cost curve is to keep people healthy in the first place and keep them out of the hospital.

So I thank my colleague for all his great work on the bill.

Mr. WHITEHOUSE. Mr. President, I thank the chairman of the committee.

Mr. HARKIN. Mr. President, I would like to engage my friend from Pennsylvania in a little discussion on one part of the bill that was mentioned earlier today but really has not received much attention. I think there are some misconceptions about what it does. It is called the CLASS Act.

Basically, the CLASS Act is a bill that was championed by Senator Kennedy for many years. It has its genesis in the kind of convoluted system we



have now in how we provide for people who become disabled.

Either through their work, through an accident, through illness, or whatever, people become disabled. As you know, we have a portion of that under the Social Security system, disability insurance. But, in fact, it does not take care of any kind of long-term care. So Senator Kennedy, for many years, championed the idea of giving people the ability to set aside some money during their working years that would be sort of like Social Security. It would vest, and then, if, God forbid, they became disabled, they would then have a certain monthly income that would enable them to live in their own homes, live in their own communities, and to ease some of the burdens of their disability.

Before he passed away, Senator Kennedy talked to all of us on the committee about his dream and his hope that we would have this incorporated in our health reform bill.

Well, we did this in the HELP Committee. We brought it forward. We had it scored. We know exactly how it operates. As we will make clear, I am sure, in our colloquy, it is a program that can be paid for. It is voluntary, as we said. It will stand on its own two feet. It is not another entitlement program, as I heard someone say here earlier today. In fact, it has to be self-financing by the premiums people pay in during their working years. It is an affordable, long-term care program. Again, it will allow families to plan for any possibility of a chronic illness, without having the fear of being put in a nursing home. As I said, it is voluntary.

The CBO gave us a scoring on this that it was actuarially sound for 75 years—actuarially sound for 75 years. What that means is that the premiums paid in and the benefits paid out will be kept in proper alignment. It will be fully solvent.

Quite frankly, Mr. GREGG, the Senator from New Hampshire, on our committee, basically talked about this, and here is what he said:

I offered an amendment, which was ultimately accepted, that would require the CLASS Act premiums to be based on a 75-year actuarial analysis of the program's costs. My amendment ensures that instead of promising more than we can deliver, the program will be fiscally solvent and we won't be passing the buck—or really, passing the debt—to future generations. I'm pleased the HELP Committee unanimously accepted this amendment.

Well, we did, and that is why I make the point that this is not another entitlement program, as was said here earlier today.

Even better, the CBO believes the CLASS Act will save Medicaid \$1.4 billion in the first 4 years alone—\$1.4 billion in the first 4 years alone—as a result of families who will be paying into and then using the CLASS benefit instead of Medicaid to similarly pay for the help they need to remain at home. That is really what people want. People want to stay in their own commu-

nities. They do not want to have to go to a nursing home.

The CLASS Act would provide money for assisted transportation, in-home meals, help with household chores, professional help getting ready for work, adult daycare, professional personal care. Now, will it pay for all those things? No, it will not pay for all those things, but it will give you enough of a basic support so that, coupled with other things, you would be able to stay at home and maybe even go to work. You may be disabled, but you may not be so disabled you cannot do some work; therefore, you need a little bit of help at home to get out in the morning and go to work or maybe you just need some personal assistance care that would enable you to stay in your own home rather than going to a nursing home.

So that is why this amendment is so important. It is voluntary, long overdue. I think it will begin to give people the peace of mind of knowing if they pay into this system, after it vests—after 5 years of vesting—they will then be able to access this program in case they get disabled.

Mr. President, I see my colleague and my friend from Pennsylvania is on the floor, a strong supporter of the CLASS Act and what we are trying to do here in terms of giving people the ability to maintain themselves if, God forbid, they should become disabled. I will be delighted to yield whatever time he needs to the Senator from Pennsylvania and engage in any colloquies he would like.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I thank my colleague and friend, Senator HARKIN, who is now the chairman of the Health, Education, Labor, and Pensions Committee, taking over for Senator Kennedy. I know he feels an obligation not only to get this health care bill passed, but he also feels an obligation to the American people, as I think most people in this Chamber do, when it comes to health care. In particular, I commend Senator HARKIN for his great support for this legislation over a long period of time, and in particular for the CLASS Act.

One of the best moments in our deliberations this summer was when Senator HARKIN told a story about a relative of his. In a few moments, if he would tell that story, it brought home to me how important this program is and how it relates to the American people and what they do not have now, especially those Americans with disabilities.

When I step back and look at this program, a couple of things come to mind—a couple of themes, really. One is the word “dignity,” the dignity of work. So many Americans—by one estimate, 5 million Americans—under the age of 65 are living in our country who have long-term care needs, and there are over 70,000 workers with severe disabilities in the Nation today, who need

daily assistance to maintain their jobs and their independence. So we are talking about a program which allows them to continue working with a disability. It allows them to overcome or surmount the barrier that is in front of them. Why would anyone not want to support this kind of a program, just in that brief description? But it is a lot more than that. It is about the dignity of work. It is about having independence, the ability to continue to work even with a disability. But it is also a very strong program for other reasons as well.

One is, as Senator HARKIN said so well—and Senator Kennedy led us on this program for many years, advocating for this approach—one important feature of this, as Senator HARKIN says, is it is voluntary. It is a voluntary, self-funded—self-funded—insurance program with enrollment for people who are currently employed. So we are talking about enabling and helping people to work and maintain their dignity and contribute to our economy. That is what we are talking about here. We are not talking about some government program we are going to create that no one knows what the results will be. We know exactly what this will do for millions of Americans.

Let me make a couple of points before I turn again to our chairman, Senator HARKIN.

First of all, there have been a lot of arguments made on the other side that we do not need this. Boy, I have not heard an alternative, which is true in a lot of the debates in the last couple of days. We hear a lot of criticism and critiques, some of them grossly inaccurate. But I am still waiting—still waiting—to hear an alternative, another idea. We do not hear much about that.

But the other side made a lot of points about cost and the budget and how you pay for programs such as this. Well, let's just turn to the first chart on my left.

Medicaid pays for a majority of long-term care in the United States of America. For long-term care, 40 percent of it is paid for by Medicaid. A lot of people think of the Medicaid Program, which I guess covers about 60 million Americans, roughly. We should think about long-term care. People do not often think about Medicaid as being connected directly to long-term care for older citizens, those who fought our wars, who worked in our factories, who raised our families, who gave us life and love, and all they ask for in the twilight years of their lives is a little help with their health care. Plenty of them are given skilled care in nursing homes, and for many of those who are in nursing homes, they have skilled care, and they have a good experience. For some, it is not so good. They would rather be able to stay at home. They would rather be able to have opportunities to be provided some help at home. So they want the kind of dignity I spoke about earlier. The same

is true of those who might be a lot younger but who have disabilities and want to continue working. They want to continue working.

Here is another way to look at this: Projected Medicaid spending on long-term services and supports is unsustainable because if nothing is done, Medicaid services for older citizens in America alone will rise by 500 percent by 2045. You do not have to be—I am certainly not an expert on how these costs are going up, but you do not have to be an expert to know that in the year 2000, you are at this level, and by the year 2045—not that far in the future—you are going to be over at above \$200 billion. So Medicaid long-term services and support spending for those who happen to be aged 65 or older: \$200 billion by 2045. So this is going up. This is when you do not do anything to meet a health care challenge. If we want to just keep this number going up, well, listen to the other side and just not enact any kind of a program.

Let me do one more chart, and then I will turn to Senator HARKIN for a discussion about this.

We hear a lot about spending and savings and how we are going to pay for health care. Well, if we want to pay for a part of this health care bill—and a big part of the challenge—we should enact the CLASS Act because Medicaid savings from this act, as you can see here: \$1.6 billion just over the first 4 years. We are not talking about 10 years or 20 years or 40 years; we are talking about, in 4 years, you get \$1.6 billion in savings—over the first 4 years of the implementation of the CLASS Act—starting in 2016.

So this is affirmative in the sense that it ensures people's dignity. It allows people to work even with a disability. And it is also fiscally responsible. And those who benefit from it are paying into it, and it is voluntary. No one has to do it. It is voluntary.

We have heard a lot of arguments, I say to Senator HARKIN, but I think we know from the work he did, working so many years with Senator Kennedy on these issues and working in the committee this summer, as one of our leaders—with Senator DODD chairing the hearings this summer—and now as the chairman of the committee, the Senator has been instrumental in getting not just this legislation moving forward but especially on the CLASS Act, and I am grateful for him taking on this responsibility. I want to get the Senator's sense of what he hears from people in Iowa and his own experience with why this is so essential for the American people.

Mr. HARKIN. I thank my friend and my colleague from Pennsylvania for laying out why this is so important, the fact that we are actually going to get savings for Medicaid from this. That is helping the States. That helps the States a lot. So we get a lot of bangs for the buck, as one might say, with the CLASS Act that we have in this bill.

I say to my friend from Pennsylvania I think one of the biggest concerns people have—they may not express it when they are younger, but once they start working and they start having a family and they see one of their friends, a relative, someone in their neighborhood, become disabled—and believe me, it happens in our neighborhoods, it happens to our friends—they see that and they wonder, Maybe but for the grace of God there go I, but what would I do if something like that happened to me? How would my family, my children function? Where would the money come from?

So to be able to have the peace of mind, to know there is a program whereby they can put some money aside every month, voluntarily, for 5 years, and then after that, they would then be able to access money if they got disabled—talk about a great insurance program. Talk about the peace of mind this would provide for people.

As I said, as we both have pointed out, this is actuarially sound for 75 years. So it seems to me that for all of these reasons, including the savings in Medicaid for the soundness of the program, but also for the peace of mind for people who are working, to know they now have a program, something they can access, that will provide them—again, I don't want to sell this for more than it is. This is not something that will make someone 100 percent whole from their earnings. We are not trying to tell people that. What this will give them is up to \$75 a day to help them with all of the things I pointed out: maybe getting up, getting ready to go to work; maybe it is personal attendant services. It could be a whole host of different things that will enable them to live in their home, in their community, and, yes, maybe even be able to go to work every day.

My friend from Pennsylvania referred to the story I told earlier this summer, and I like to tell it because I think it illustrates what we are talking about here. I have a nephew, Kelly, my sister's boy. Well, he is not a boy anymore; he is an older man now, I guess you might say. He became disabled at a very young age, age 19, a severe paraplegic, but he was able to go to school, go to college. He was able then to live by himself in his own home. He had a van with a lift. He could get his wheelchair up there and punch the button and the doors would open and the thing would come down and he would get in the van. He had use of his hands. He could drive to work. He was able to start his own small business. But every morning he needed a nurse to come into the home, get him ready to go to work, get him up, get him going, get him out the door. Every night when he came home, he would stop and do some shopping on the way, come home to his own house where he lived, in his own community, among his family. His family was close by. They would have a nurse every evening do his exercises with him, keep his arms strong, do all

of his other internal things that needed to be done, make sure he could get to bed. It happened every day. But because of that, he was able to live a full life, and he still is. Kelly is still an active man. But that was—gee, I am trying to remember now. I have to think. That was in 1979, 30 years ago. Kelly must be about almost 50 years old now. I never thought about that. I always think of him as a kid. But he was able to do that, and he has lived a full life. He has been able to work, live by himself, do all kinds of wonderful things.

How was he able to afford this? Was his family wealthy? Not a bit, not at all. In fact, his mother died shortly after the accident happened. My sister, who had breast cancer, died at an untimely, young age. But the way Kelly was able to do all this was because he got injured in the military. He got injured while he was onboard a ship off the coast of Vietnam. So the VA paid for all of this and is still paying for it—for his personal services—so that he can live by himself and get out the door and go to work. I have seen what that has done for him.

I thought to myself: Well, if we can do this for veterans, what about other people in our society who, through no fault of their own or through an accident or whatever, become disabled. I thought about how much Kelly was able to earn during his lifetime, the fact that he paid taxes, had his own business. You know, that was a pretty darn good deal for the taxpayers of this country.

In a small way, that is what we are trying to do here. That is what we are trying to do, to build a system for someone who gets injured, becomes disabled, has some support mechanisms so they can also live a full, rich, and happy quality life without having to go to a nursing home. That is what this is all about.

As I said before, I say to my friend, it has so much to offer. I can't imagine there would be any real opposition to this—voluntary, actuarially sound. It provides a stipend to help people if they become disabled.

I say to my friend from Pennsylvania it seems to me of all the things we have been discussing on this health reform bill so far, to me this is one of the most important. This is one of the most important parts of this health reform bill. We have never done it before. It is long overdue. It will be good for our families. It will be good for businesses. It will help our States because of the cutbacks and they won't have to pay so much into Medicaid.

I thank my friend from Pennsylvania for his strong support of this. I say to my friend Ted Kennedy: We are going to get it done. It is going to happen. We are not going to let this bill get through and go to the President without having this in it. It is going to be there. There is no doubt about it. We are going to make it work, just as the Veterans' Administration worked for my nephew Kelly.

I yield back to my friend from Pennsylvania. Actually, he asked me a question and I kind of got off a little bit there on telling my stories.

Mr. CASEY. I am glad the Senator told that story. For me, this summer, beginning to learn about the details of the CLASS Act, it was a way, through the life of the Senator's nephew, to be able to tell the story about why it was so important. I was thinking as you were talking about the program and the CLASS Act itself and your own personal story and why it makes so much sense.

Sitting here to my left on the floor is Connie Garner. She has worked for years on this legislation with Senator Kennedy. She would know better than I, and Senator HARKIN would know better than I. Ted Kennedy not only liked this and fought hard for this program, but he wasn't a guy who just liked interesting ideas, he wanted them to work.

Mr. HARKIN. That is right.

Mr. CASEY. There are times we will be talking about the Children's Health Insurance Program in this legislation. That is a program that had its origin in government, and there is a lot of government involvement in that program. I support it and will fight to the end of the Earth for it. This program, the CLASS Act, the program that results from the CLASS Act, is different. It is a hybrid. It is in many ways a creative way to provide these kinds of services for people with disabilities. It is not a government entitlement program. It is a program that doesn't confer rights or an obligation on government funding, nor does it affect the receipt of or eligibility for other benefits. It stands on its own financial feet, which is the point that Senator HARKIN made. Why wouldn't we do this?

This wasn't just dreamed up this summer. Senator Kennedy, Senator HARKIN, Connie Garner, and plenty of other folks were working on this for a lot of years. This is the result of years of work, not a couple of weeks or months. So they worked on this to get it right, and we have it right. It makes sense fiscally and it makes sense in terms of the dignity of people's work, the dignity of people able to stay in their home and be provided basic services.

All of our families are affected by this. At some point or another, you are going to have a loved one who wants to work but has a disability, maybe; or needs long-term care services and doesn't want to leave the home. Everyone is affected by that. There is not a Member of the Senate on either side who isn't going to be affected personally some day by this challenge. All we are saying is we have a way to make it a little easier for folks. As Senator HARKIN said, it doesn't solve all of the problems, but it helps provide the kind of services we should have the right to expect.

We have this figured out. Some of these things we can figure out because

of all of the work that was done over many years. This program, this voluntary self-funded program is one way to do it. Senator HARKIN has been a leader on this and we are grateful for that leadership.

Mr. HARKIN. If the Senator would yield again to me, two other things. I am glad the Senator mentioned Connie Garner who again, with Senator Kennedy, has worked so many years on this, and has her own personal story to tell regarding this, a very poignant story. But I now want to thank Connie for all of her wonderful work on this and shepherding this through. She is probably sitting over there wishing we had said this and that, because we probably forgot something she knows better than we know. But we do our best, Connie. We do our best with what we have, anyway, to try to explain this. But I thank Connie for all of her great work and leadership in getting this to this point.

I wonder if I might impose upon the Senator, if I might—not digress but talk about one other part of the picture here we are talking about, in terms of covering people with disabilities. We have been talking about the CLASS Act, which is prospective. It looks ahead; it provides the mechanism whereby middle-class families can plan for the future possibility of an illness or a disability by putting this money away every month. We have talked about that. But one might ask the question: What about those who are disabled now? What is happening to them, the millions of Americans who are already living with a disability? Well, in 1990, we passed the Americans With Disabilities Act. We began to break down a lot of barriers in terms of people with disabilities and accessing daily living, accessing employment, transportation. But what happened was a few court cases started interfering with this. There was one court case in particular called the Olmstead decision 10 years ago. It came out of Georgia. It was a case in Georgia. It went to the Supreme Court. The Supreme Court said that based upon the Americans With Disabilities Act, a State had to provide the least restrictive environment for a person with a disability.

Well, this was wonderful because the only option for many people with disabilities right now is to go to a nursing home. In fact, our Federal laws are basically skewed toward putting people in nursing homes.

Let me explain. Right now, about the only support a person with a severe disability has is through Medicaid. As you know, through Medicaid you have to spend down until you become poor and then you get access to Medicaid. But under our laws, Medicaid must pay for you, if you are disabled, and then you qualify—they must pay for you to be in an institution or nursing home. They must. They have to pay for you. If, however, you are a person with a disability and you say: But I don't want to live in a nursing home; I would like

to live—like my nephew Kelly—in my own house with my friends, in my own neighborhood, Medicaid doesn't have to pay for it, and in most cases it does not pay for that. In the vast majority of cases, it doesn't pay for that.

So their beginning movement was in the mid-1990s to provide for funding for individuals with disabilities so they can live in their own homes in the community and not have to go to the nursing home. Well, that bill never—it was called MCASSA, the Medicaid Community Attendant Support and Services Act.

I always like telling people, I say to my friend from Pennsylvania, while we sponsored it over in the Senate, the first sponsor of it in the House was the Speaker at that time who had taken over, and his name was Newt Gingrich. To this day, he is still supportive of that. A few years ago, I talked to him, and he was still a strong supporter of MCASSA. It later became the Community Choice Act. We could never get it enacted into law.

It is a part of this health care reform bill in this way: It provides that if a State implements this Community Choice Act, which would allow people with disabilities to live in the community rather than in a nursing home, it will then get a bump up. It will get a 6-percent increase in its Federal match for Medicaid.

As you know, now the Federal Government provides some and the State provides some for Medicaid. It is roughly 60/40. It varies a little, but that is roughly it, 60/40. Well, that means that a State now that would do this would not have to come up with its 40 percent; it would only have to come up with 34 percent. So it is an incentive for States to begin to implement the Supreme Court decision of over 10 years ago that people with disabilities have a right to live in the least restrictive environment. Again, Medicaid, right now, as I said, will provide only for nursing home care. States are obligated to pay for that. They must.

Again, this also is a part of what the elderly in this country are concerned about too. A lot of them say that if they become disabled, they don't want to go to a nursing home, but that is their only option under Medicaid. So that explains why the second biggest priority in poll after poll for seniors in this bill, after strengthening Medicare—which we do—is changes to the health care system that will allow them to get the help they need to stay at home rather than going to a nursing home.

Again, you might say, why is this so important? Well, a couple of stories. Two women who brought the Olmstead case, Lois Curtis and Elaine Wilson, when asked at a hearing what it changed for them, because they were no longer institutionalized, both spoke of things that we kind of take for granted: They had new friends. They could meet new people. They could attend family celebrations. They said:

We could make Kool-Aid whenever we wanted to. Simple things. They could go outside and walk in the neighborhood. They got a little dog, and they could walk the dog in the neighborhood—something they could not do in the nursing home. That is another part of the bill—very closely aligned with the CLASS Act, but it pertains to those people with disabilities right now.

We know, again, from data and statistics we have that by paying for personal care services and home care services—and you might say that is really expensive. But we know from data that we get three for one. In other words, for every one person in a nursing home, for what that costs, we can provide community and home-based services for three people. That is three people for every one in a nursing home. So in a way, yes, it costs money, but for every person we get out of a nursing home, we can pay for three living in the community. Again, that is not to mention the kind of quality of life I just mentioned.

This bill for the first time creates the community first choice option, which gives States an extra share of Federal money—6 percent—if they agree to provide personal care and services to all eligible people in their State—I mean those eligible for institutional care. If they provide that to them, then they get a bump up. And only by making personal care services available on an equal basis to all those eligible can we satisfy the promise of the Americans with Disabilities Act and really meet the Supreme Court mandate in the Olmstead decision.

I say to my friend from Pennsylvania, there are two aspects of the bill. One is the CLASS Act, which looks ahead and provides that peace of mind that people know they can have that access. Then we provide for people with disabilities who are living out there, fearful that the only thing that will happen to them is they will have to go to a nursing home. Now we are going to say to States: You provide community- and home-based services, and we will give you more money to do so through your Medicaid Program. Hopefully, with that, the States will begin to move more rapidly to fulfill the mandate of that Supreme Court decision.

I thank my friend for yielding me this time to explain that.

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

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

Mr. CASEY. Mr. President, I ask unanimous consent that on Friday, December 4, after any leader remarks, the Senate then resume consideration of

H.R. 3590 with debate only in order until 11:30 a.m., with no amendments, motions to commit, or any other motion, other than a motion to reconsider a vote, if applicable, in order during this period, except those that are currently pending, with the time after the leader time equally divided and controlled between the leaders or their designees, with the majority controlling the first portion of time.

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

#### MORNING BUSINESS

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

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

#### TRIBUTE TO JEFFERY D. RUPERT

Mr. REID. Mr. President, I rise today to recognize the work of Jeffery D. Rupert, who served as executive assistant to the U.S. Capitol Police Board from August 2003 to December 2009.

Pursuant to Public Law 108-7, section 1014(c) Congress established the position to act as a central point for communications and enhance the Police Board's work. In his capacity as the first executive assistant to the board, Mr. Rupert built the job from the ground up, developing policies, initiating procedures, and establishing an archival system which will serve as a historic chronicle of board security decisions.

Mr. Rupert contributed greatly to the safety and security of the Capitol Complex during his tenure, which included board support for two Presidential inaugurations, two dozen joint sessions of Congress, and other major special events and demonstrations.

Additionally, Mr. Rupert's regular daily duties enhanced the overall effectiveness and efficiency of the board's oversight activities. Whether he was coordinating a meeting or writing legal analysis, Mr. Rupert paid great attention to detail.

His more than 6 years of work were critical in supporting preparations for potential terrorist attacks and included a vast span of expertise in law enforcement, safety, and security issues. He served the USCP and the Capitol Police Board honorably in the aftermath of the ricin attacks.

Mr. Rupert served as a liaison with other congressional and executive branch entities to include the Department of Homeland Security, the Federal Bureau of Investigation, the Central Intelligence Agency, the Department of Defense, and many other agencies. As a liaison, Mr. Rupert provided information concerning national level issues including continuity of government and continuity of operations for the U.S. Congress. His personal and

professional contacts ensured seamless sharing of vital intelligence, and the Capitol community was well served during his stewardship.

I understand Jeff has accepted a high-ranking position at the Pentagon. On behalf of the entire Senate, I wish Jeff the very best in his future endeavors and offer him heartfelt thanks for his service to Congress and the American people.

#### HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS KIMBLE A. HAN

Mr. HATCH. Mr. President, I rise today to pay tribute to PFC Kimble A. Han who made the ultimate sacrifice for his country on October 23, 2009, in Afghanistan. According to initial reports, Private First Class Han died of injuries sustained when an improvised explosive device detonated near his vehicle.

Private First Class Han was assigned to the 569th Engineer Company, 4th Engineer Battalion, Fort Carson, CO.

Private First Class Han enlisted in the Army in January of 2008 and by December was assigned to the combat engineers. He exhibited an astounding sense of devotion to duty in service to our great Nation. He received numerous recognitions, medals and ribbons for his service, including the National Defense Service Medal, the Afghanistan Campaign Medal with Campaign Star, the Global War on Terrorism Service Medal, Army Service Ribbon, Overseas Service Ribbon and Combat Action Badge. As a result of his heroic service, Private First Class Han was posthumously promoted to specialist. The selfless courage Kimble displayed in the service to our country will not be forgotten. We are forever in his debt.

Mr. President, let us not forget the sacrifice of PFC Kimble A. Han. I am filled with deep gratitude for his service and pray for his family and friends throughout this difficult time. I know that I am joined by all my colleagues in the Senate in mourning the loss of PFC Kimble A. Han, our Nation's protector and hero.

SERGEANT JAMES MICHAEL NOLEN

Mr. President, I rise today to pay tribute to SGT James Michael Nolen who was killed in the line of duty on November 23, 2009, in Zabul, Afghanistan. Sergeant Nolen sustained fatal wounds when enemy forces attacked his vehicle with an improvised explosive device.

SGT James Nolen served with the 2nd Battalion, 508th Parachute Infantry Regiment, 4th Brigade Combat Team, 82nd Airborne Division, Fort Bragg, NC.

Sergeant Nolen truly exemplified the qualities of a dedicated soldier and hero. A fellow paratrooper conveyed that "Sergeant Nolen was a true soldier. Nothing could take away from his warm personality. His caring smile and willingness to help others were his most identifiable features."

James exhibited an astounding sense of devotion and duty to our great Nation. He received numerous recognitions, medals and ribbons for his service including the Bronze Star Medal, the Purple Heart Medal, the Army Commendation Medal, the Army Achievement Medal, the Army Good Conduct Medal, the National Defense Service Medal, the Global War on Terrorism Service Medal, the Army Service Ribbon, the Overseas Service Ribbon, the NATO Medal, the Combat Infantryman Badge and the Basic Parachutist Badge.

Mr. President, I express my deepest appreciation for the selfless dedication this soldier proudly exhibited in service to our country. He courageously put himself in harm's way to defend us, and for that we owe him an infinite debt of gratitude. I offer my deepest condolences and prayers for James' family and friends during this difficult time. I know that I am joined by all my colleagues in the Senate in mourning the loss of SGT James Michael Nolen, our Nation's protector and hero.

#### NOMINATION OF JACQUELINE NGUYEN

Mr. BEGICH. Mr. President, I want to comment today on the confirmation earlier this week of the Honorable Jacqueline Nguyen to be judge on the U.S. District Court for the Central District of California. Unfortunately, I was delayed in my return from Alaska, and I was unable to be here for the vote. Had I been here, I would have proudly cast my vote along with the rest of my Senate colleagues to confirm this highly qualified and well-respected jurist. Upon her confirmation, Judge Nguyen made history by becoming the first Vietnamese-American to serve as a U.S. district court judge in U.S. history.

I applaud the judge's unanimous confirmation by the Senate as an example of what we do all too infrequently, I am afraid—recognizing a public need and to acting appropriately and expeditiously to address it. I commend the President for heeding the recommendation by our colleagues from California and nominating a woman of obvious talent. The President nominated Judge Nguyen, I am sure, because he perceived in her a combination of the education, experience, and temperament appropriate for a life-tenured position on the federal bench. Her unanimous "well qualified" rating from the American Bar Association's Standing Committee on the Federal Judiciary, earned after an 18-year career in the law, including nearly 7 years as a California Superior Court judge and roughly the same amount of time as an assistant U.S. attorney in the same district in which she will now serve as a Federal judge, would seem to be completely justified. I have little doubt that Judge Nguyen will be an outstanding Federal judge.

As impressed as we all should be with her qualifications, I believe we can all

look at the details of Judge Nguyen's life as a truly great and quintessential American story. Born in Da Lat, Vietnam, Judge Nguyen and her family were able to escape the approaching North Vietnamese and Viet Cong armies, departing Saigon in 1975 on a crowded helicopter as gunfire could be heard in the background. The Nguyen family was part of the great wave of Vietnamese immigrants who left their homeland to escape the Communist takeover. After stops in refugee camps in the Philippines and on Guam, the Nguyens made their way to California, spending several months living in a tent on the grounds of the Marine base at Camp Pendleton. The Nguyens eventually settled in La Crescenta. The judge, her siblings, and their mother cleaned dental offices after school and at night, while her father studied to be a computer programmer and worked in a gas station at night and on weekends. Eventually, her parents purchased a doughnut shop in North Hollywood. Judge Nguyen says she often did her homework during high school between shifts at the doughnut shop and also worked there while she was earning her degree from Occidental College. She would ultimately earn her law degree from UCLA.

I do not know Judge Nguyen, but I am impressed by her accomplishments and the drive she and her family have shown in coming to this country and embracing the opportunities the United States offers its citizens. I recognize in her story the same drive and love of country that I have seen among the Vietnamese-American citizens of Alaska. The United States is a nation made great in part by its diversity. I personally take pride in serving alongside our first African-American President, and at the same time as our first Vietnamese-American Federal judge. Still, as much as the confirmation of this highly qualified woman is an example of the possibilities available to all Americans, I cannot help but believe it is being hailed today as a point of immense pride by the Vietnamese-American community in my home State of Alaska, in Judge Nguyen's State of California, and all across this country. I extend the judge, and the Vietnamese-American community, my sincere congratulations.

#### STEM EDUCATION

Mr. KAUFMAN. Mr. President, a few weeks ago the Department of Education released application guidelines for the Race to the Top competitive grant program. I am very encouraged that these guidelines include a competitive preference for science, technology, engineering, and mathematics—or STEM—education. I commend the Department for its foresight.

Throughout the year, I have spoken many times about how important a focus on science and engineering is to our continued economic recovery. Engineers and scientists have always been

the world's problem-solvers. They will help us to solve the challenges of clean water; lifesaving cures for cancer and disease; clean, renewable petro-free energy; affordable health care; and environmental sustainability.

Yet, if we are to tackle these immense challenges, we can no longer wait to begin training our Nation's future STEM professionals until after they leave the K-12 education pipeline. That is why I am so pleased that the Race to the Top grant application emphasizes STEM education. This is just the kind of attention STEM education needs.

The Race to the Top fund is designed to reward States that have been successful in raising student achievement and have superior plans to accelerate education reform. State grant applications must, of course, focus on certain core education reform areas. However, an emphasis on STEM education is considered a competitive preference priority worth 3 percent of a State's application score. It is the only competitive preference in the Race to the Top application guidelines. Applicants will earn all or none of the designated points, thereby truly rewarding sound initiatives.

To meet this priority, each State must offer a rigorous course of study in STEM education. They are encouraged to collaborate with industry professionals, universities, research centers, museums, and other STEM-focused community partners. Additionally, each State must have a plan for preparing and assisting teachers in integrating STEM throughout the curriculum. This includes offering applied learning opportunities and relevant instruction for students.

There are some successful STEM education programs already in operation throughout the country. A study released by the National Academy of Engineering in September highlighted a handful of K-12 engineering curriculum projects. Other education-based initiatives are also spurring interest among our youth. For example, there is a remarkable afterschool program in Wilmington, DE, that I recently spoke about here in the Senate. It inspires high school students to pursue careers in STEM fields by teaching them how to build robots. It is a great program. All too often, though, these types of opportunities have not been available to all of our Nation's students. The Race to the Top grants will bring more opportunities to more students.

Perhaps the most important component for meeting this grant priority is that States' plans must prepare more students to pursue college majors and careers in STEM. They must also specifically address the needs of women and underrepresented minorities. The United States cannot maintain its position as a technological leader nor can we solve the problems we face without a diversity of perspectives and participation.

Women constitute about half of the students in our higher education system about half of the overall workforce, but they comprise only slightly more than 12 percent of the science and engineering workforce. African Americans hold only 4.4 percent of science and engineering jobs, Hispanics just 3.4 percent. We can, and must, do better, and the Race to the Top application guidelines are a step in the right direction.

Over \$4 billion is available for competitive grants in the Race to the Top program. This is an unprecedented level of discretionary funding for the Department of Education, and States nationwide will be pulling out all the stops to earn their share of the pie. Many States working months ago to put the correct conditions in place to apply for funds.

Moreover, the "Educate to Innovate" campaign was recently launched by President Obama. This campaign is a nationwide effort of private companies, universities, foundations, nonprofits, and science and engineering societies—working with the Federal Government—to improve student performance in STEM subjects. As part of this effort, business leaders and nonprofits will be joining forces to identify and replicate successful STEM programs across the country. For example, Time Warner Cable and the Coalition of Science After School are creating an online directory of STEM afterschool programs. Other STEM organizations will be teaming up with local volunteers to host National Lab Days, and President Obama announced an annual science fair at the White House. This type of public-private collaboration is just the kind of action we need to bolster STEM education.

I sincerely hope the competitive preference for STEM education in the Race to the Top application, coupled with the "Educate to Innovate" campaign, will spur the kind of investment and attention in STEM education that I believe all of our students deserve. Our country is counting on these future scientists and engineers.

#### TRIBUTE TO MAJOR LAMONT ATKINS

Mr. AKAKA. Mr. President, I wish today to recognize MAJ Lamont Atkins of the U.S. Air Force, who has been my military legislative fellow for the past year.

Lamont is a proud alumnus of the University of Alabama, where he earned a bachelor of science in management information systems, and an avid fan of Alabama's Crimson Tide football team. He also holds a masters of arts in computer resources and Information Management from Webster University. With over 11 years in the military, Major Atkins brought a wealth of knowledge and experience to my office. He has excelled in every previous assignment and has received numerous commendations, including several Officer of the Year awards.

While Major Atkins' primary duty was to assist my military legislative assistant on defense and veterans' issues, he also made significant contributions in other areas, including banking, judiciary, health, and education issues. Major Atkins prepared for Senate Army Caucus meetings, researched banking issues, and wrote memos on a variety of topics. Lamont performed beyond expectations. His flexibility and willingness to go the extra mile greatly benefited our office.

During Lamont's tenure, we transitioned from one military legislative assistant to another. Lamont's assistance was crucial to ensuring a smooth transition, and was key in bringing the new military legislative assistant up to speed on my initiatives.

Major Atkins was stationed at Hickam Air Force Base prior to his assignment at the Pentagon. The opportunity of experiencing firsthand the unique needs of the constituents of Hawaii was instrumental to Lamont's success on our staff, and Lamont displayed the aloha spirit daily.

I also extend my sincere aloha to Lamont's wife Karonica and their children, Lamont Junior and Kendall, whom my staff and I have also had the pleasure of getting to know during Lamont's time in my office. I extend my heartfelt aloha and utmost appreciation to Major Atkins for his service to the great State of Hawaii, to the Senate, and to our Nation. My staff and I will miss him dearly. I wish Lamont and his 'ohana the very best in their future.

#### ADDITIONAL STATEMENTS

##### RECOGNIZING MILL CREEK ELEMENTARY

• Mr. BOND. Mr. President, on behalf of my fellow Missourians, I extend my warmest congratulations to Mill Creek Elementary School in Columbia, MO.

Mill Creek Elementary is celebrating 20 years of dedication to educating its students. When Mill Creek opened in 1989, it served 486 students. Now, the school is home to 90 faculty and staff members and 760 students.

Mill Creek Elementary has educated and advanced thousands of students over the years. The faculty and staff have helped students to develop the knowledge and skills that will serve them throughout their lives so they may contribute to their communities one day.

At Mill Creek, students pledge to be respectful of themselves and others, responsible for their own learning and behavior, and resourceful problem-solvers. These standards are known as the 3 R's: respect, responsibility, and resourcefulness. Mill Creek hopes to instill these standards within its students so they will use them not just at school but also in their homes and their communities.

Public education is strengthened when schools have the support of the

local community. KMIZ-17, Rolling Hills Veterinary, Columbia Insurance Group and Boulevard Bank have all stepped forward to be involved at Mill Creek through the Partners in Education program. These businesses provide time and support to students through mentoring, hands-on lessons and even a school weather station.

Strong parental involvement also leads to school success. Mill Creek benefits tremendously from the countless PTA and volunteer hours donated by family members and community leaders each year.

Mill Creek Elementary has been committed for over 20 years to providing a high quality education to its students and preparing them to be leaders in their community. Parents, students, teachers and staff can all be proud of their accomplishments.

Congratulations to the Cougars!•

##### RECOGNIZING THE BRIDGEVILLE VOLUNTEER FIRE DEPARTMENT

• Mr. CARPER. Mr. President, today I offer my congratulations to Chief Jack Cannon and President Allen Parsons and the entire company as the Bridgeville Volunteer Fire Department celebrates 100 years of service. The success of the fire company is a tribute to the many dedicated men and women who not only have served in the Bridgeville Fire Company, but have served the entire Bridgeville community in any number of ways, as well.

Since 1909, the members of the Bridgeville Volunteer Fire Company have protected the property and residents of this historic community. The fire company has reached many milestones throughout the years, including equipment upgrades, the formation of the Ladies Auxiliary, and moves to larger stations to accommodate growth and expansion. As it currently stands at 60 volunteer members and 2 professional emergency medical technicians, the Bridgeville Volunteer Fire Company represents a standard of excellence, answering over 300 fire calls and 800 ambulance calls annually, night and day in all kinds of weather.

Delaware's firefighters are dedicated and caring professionals who willingly put themselves at risk to protect the lives and property of their neighbors. We are all sincerely grateful for their continuing service. The hard work and dedication of these devoted volunteers is an inspiration to all. Moreover, the Bridgeville Volunteer Fire Company has crafted a tradition of superior and selfless service.

I again congratulate the members on this momentous anniversary and look forward to hearing of their continued success for another hundred years and beyond.•

##### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.



## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 11:22 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 320. An act to amend the National Manufactured Housing Construction and Safety Standards Act of 1974 to require that weather radios be installed in all manufactured homes manufactured or sold in the United States.

H.R. 515. An act to prohibit the importation of certain low-level radioactive waste into the United States.

H.R. 1242. An act to amend the Emergency Economic Stabilization Act of 2008 to provide for additional monitoring and accountability of the Troubled Asset Relief Program.

H.R. 2873. An act to provide enhanced enforcement authority to the Securities and Exchange Commission.

H.R. 3634. An act to designate the facility of the United States Postal Service located at 109 Main Street in Swifton, Arkansas, as the "George Kell Post Office".

H.R. 3963. An act to provide specialized training to Federal air marshals.

H.R. 3980. An act to provide for identifying and eliminating redundant reporting requirements and developing meaningful performance metrics for homeland security preparedness grants, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 129. Concurrent resolution congratulating the Sailors of the United States Submarine Force upon the completion of 1,000 Ohio-class ballistic missile submarine (SSBN) deterrent patrols.

H. Con. Res. 197. Concurrent resolution encouraging banks and mortgage servicers to work with families affected by contaminated drywall and to consider adjustments to payment schedules on their home mortgages that take into account the financial burdens of responding to the presence of such drywall.

At 5:52 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3570. An act to extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes.

H.R. 4154. An act to amend the Internal Revenue Code of 1986 to repeal the new carryover basis rules in order to prevent tax increases and the imposition of compliance burdens on many more estates than would benefit from repeal, to retain the estate tax with a \$3,500,000 exemption, to reinstitute and update the Pay-As-You-Go requirement

of budget neutrality on new tax and mandatory spending legislation, enforced by the threat of annual, automatic sequestration, and for other purposes.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 320. An act to amend the National Manufactured Housing Construction and Safety Standards Act of 1974 to require that weather radios be installed in all manufactured homes manufactured or sold in the United States; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 515. An act to prohibit the importation of certain low-level radioactive waste into the United States; to the Committee on Environment and Public Works.

H.R. 2873. An act to provide enhanced enforcement authority to the Securities and Exchange Commission; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3570. An act to amend title 17, United States Code, to reauthorize the satellite statutory license, to conform the satellite and cable statutory licenses to all-digital transmissions, and for other purposes; to the Committee on the Judiciary.

H.R. 3634. An act to designate the facility of the United States Postal Service located at 109 Main Street in Swifton, Arkansas, as the "George Kell Post Office"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3963. An act to provide specialized training to Federal air marshals; to the Committee on Commerce, Science, and Transportation.

H.R. 3980. An act to provide for identifying and eliminating redundant reporting requirements and developing meaningful performance metrics for homeland security preparedness grants, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 129. Concurrent resolution congratulating the Sailors of the United States Submarine Force upon the completion of 1,000 Ohio-class ballistic missile submarine (SSBN) deterrent patrols; to the Committee on Armed Services.

H. Con. Res. 197. Concurrent resolution encouraging banks and mortgage servicers to work with families affected by contaminated drywall and to consider adjustments to payment schedules on their home mortgages that take into account the financial burdens of responding to the presence of such drywall; to the Committee on Banking, Housing, and Urban Affairs.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-3855. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; SOCATA Model TBM 700 Airplanes" ((RIN2120-AA64)(Docket No. FAA-2009-0557)) as received during adjournment of the Senate in the Office of the President of the Senate on November 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3856. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A318-111, -112, A319, A320, and A321 Series Airplanes" ((RIN2120-AA64)(Docket No. FAA-2008-1215)) as received during adjournment of the Senate in the Office of the President of the Senate on November 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3857. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab AB, Saab Aerosystems Model SAAB 340A (SAAB/SF340A) and SAAB 340B Airplanes" ((RIN2120-AA64)(Docket No. FAA-2009-0134)) as received during adjournment of the Senate in the Office of the President of the Senate on November 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3858. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; PIAGGIO AERO INDUSTRIES S.p.A Model PIAGGIO P-180 Airplanes" ((RIN2120-AA64)(Docket No. FAA-2009-0699)) as received during adjournment of the Senate in the Office of the President of the Senate on November 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3859. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Hawker Beechcraft Corporation (Type Certificate previously held by Raytheon Aircraft Company) Models 1900, 1900C, and 1900D Airplanes" ((RIN2120-AA64)(Docket No. FAA-2009-0165)) as received during adjournment of the Senate in the Office of the President of the Senate on November 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3860. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes" ((RIN2120-AA64)(Docket No. FAA-2009-0310)) as received during adjournment of the Senate in the Office of the President of the Senate on November 24, 2009; to the Committee on Commerce, Science, and Transportation.

EC-3861. A communication from the Regulatory Analyst, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Poultry Contracts; Initiation, Performance, and Termination" (RIN0580-AA98) received in the Office of the President of the Senate on November 30, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3862. A communication from the Administrator, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Apricots Grown in Designated Counties in Washington; Decreased Assessment Rate" (Docket No. AMS-FV-09-0038; FV09-922-1 FIR) received in the Office of the President of the Senate on November 30, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3863. A communication from the Deputy Secretary of Defense, transmitting the report of (12) officers authorized to wear the insignia of the grade of major general in accordance with title 10, United States Code,

section 777; to the Committee on Armed Services.

EC-3864. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Definitions of Component and Domestic Manufacture" (DFARS Case 2005-D010) received in the Office of the President of the Senate on November 30, 2009; to the Committee on Armed Services.

EC-3865. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, an annual report on the Mentor-Protégé Program for fiscal years 2007 and 2008; to the Committee on Armed Services.

EC-3866. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Capital-Residential Mortgage Loans Modified Pursuant to the Home Affordable Mortgage Program" (RIN1557-AD25) received in the Office of the President of the Senate on November 30, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-3867. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Final Model Privacy Form Under the Gramm-Leach-Bliley Act" (RIN1557-AC80) received in the Office of the President of the Senate on November 30, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-3868. A communication from the Assistant to the Board of Governors, Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Truth in Lending—Interim Final Rule; Request for Public Comment" (Regulation Z; Docket No. R-1378) received in the Office of the President of the Senate on November 30, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC-3869. A communication from the Office Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicaid Program: State Flexibility for Medicaid Benefit Packages and Premiums and Cost Sharing" (RIN0938-AP72 and RIN0938-AP73) received in the Office of the President of the Senate on November 30, 2009; to the Committee on Finance.

EC-3870. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, a report relative to the Commission's Strategic Plan covering the period from fiscal year 2009 through fiscal year 2014; to the Committee on Finance.

EC-3871. A communication from the President of the United States, transmitting, pursuant to law, a report relative to an alternative plan for pay increases for civilian Federal employees covered by the General Schedule and certain other pay systems in January 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-3872. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to unvouchered expenditures; to the Committee on Homeland Security and Governmental Affairs.

EC-3873. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-233, "Neighborhood Super-

market Tax Relief Clarification Temporary Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-3874. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-232, "First Congregational United Church of Christ Property Tax Abatement Temporary Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-3875. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-231, "Police and Firefighter Post-Retirement Health Benefits Temporary Amendment Act of 2009"; to the Committee on Homeland Security and Governmental Affairs.

EC-3876. A communication from the Acting Director, U.S. Trade and Development Agency, transmitting, pursuant to law, the Agency's Performance and Accountability Report for fiscal year 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-3877. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of April 1, 2009, through September 30, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-3878. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report as well as the Chairman's Report on Final Action for the period of April 1, 2009 through September 30, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-3879. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, the Administration's Performance and Accountability Report for fiscal year 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-3880. A communication from the Chairman, Board of Governors, U.S. Postal Service, transmitting, pursuant to law, the Semiannual Report on the Audit, Investigative, and Security Activities of the U.S. Postal Service for the period of April 1, 2009 through September 30, 2009; to the Committee on Homeland Security and Governmental Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 372. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes (Rept. No. 111-101).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1353. A bill to amend title 1 of the Omnibus Crime Control and Safe Streets Act of 1966 to include nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. ROCKEFELLEER for the Committee on Commerce, Science, and Transportation.

Suresh Kumar, of New Jersey, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

\*Scott Boyer Quehl, of Pennsylvania, to be Chief Financial Officer, Department of Commerce.

\*Scott Boyer Quehl, of Pennsylvania, to be an Assistant Secretary of Commerce.

\*Philip E. Coyle, III, of California, to be an Associate Director of the Office of Science and Technology Policy.

\*Anthony R. Coscia, of New Jersey, to be a Director of the Amtrak Board of Directors for a term of five years.

\*Albert DiClemente, of Delaware, to be a Director of the Amtrak Board of Directors for the remainder of the term expiring July 26, 2011.

\*Mark R. Rosekind, of California, to be a Member of the National Transportation Safety Board for the remainder of the term expiring December 31, 2009.

\*Mark R. Rosekind, of California, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2014.

By Mr. LEAHY for the Committee on the Judiciary.

Thomas I. Vanaskie, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

Louis B. Butler, Jr., of Wisconsin, to be United States District Judge for the Western District of Wisconsin.

Susan B. Carbon, of New Hampshire, to be Director of the Violence Against Women Office, Department of Justice.

John H. Laub, of the District of Columbia, to be Director of the National Institute of Justice.

Sharon Jeanette Lubinski, of Minnesota, to be United States Marshal for the District of Minnesota for the term of four years.

Mary Elizabeth Phillips, of Missouri, to be United States Attorney for the Western District of Missouri for the term of four years.

Sanford C. Coats, of Oklahoma, to be United States Attorney for the Western District of Oklahoma for the term of four years.

Stephen James Smith, of Georgia, to be United States Marshal for the Southern District of Georgia for the term of four years.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. KLOBUCHAR (for herself, Mr. FEINGOLD, Mr. WEBB, and Mr. BEGICH):

S. 2825. A bill to require cell phone early termination fees to be pro-rated over the term of a subscriber's contract, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY:

S. 2826. A bill to amend the Internal Revenue Code of 1986 to extend the renewable production credit for wind and open-loop biomass facilities, and for other purposes; to the Committee on Finance.

By Mr. SCHUMER:

S. 2827. A bill to amend the Internal Revenue Code of 1986 to expand the military housing allowance exclusion for purposes of determining area gross income in determining whether a residential rental property for purposes of the exempt facility bond rules; to the Committee on Finance.

By Mr. KERRY:

S. 2828. A bill to amend the Public Health Service Act to authorize the National Institute of Environmental Health Sciences to conduct a research program on endocrine disruption, to prevent and reduce the production of, and exposure to, chemicals that can undermine the development of children before they are born and cause lifelong impairment to their health and function, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WYDEN (for himself, Ms. STABENOW, and Mrs. GILLIBRAND):

S. 2829. A bill to amend the Internal Revenue Code of 1986 to allow the cost of labor for building envelope improvements to be included for purposes of the nonbusiness energy property tax credit; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. HATCH, Mr. BENNETT, Mr. UDALL of New Mexico, Mr. UDALL of Colorado, and Mr. BENNETT):

S. 2830. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to clarify that uncertified States and Indian tribes have the authority to use certain payments for certain noncoal reclamation projects; to the Committee on Energy and Natural Resources.

By Mr. REED (for himself, Mr. SCHUMER, Mrs. SHAHEEN, Mr. LEAHY, Mr. KERRY, Mr. DODD, Mr. WHITEHOUSE, and Mr. CASEY):

S. 2831. A bill to provide for additional emergency unemployment compensation and to keep Americans working, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. ISAKSON, and Mr. KOHL):

S. 2832. A bill to amend the Employee Retirement Income Security Act of 1974 to require a lifetime income disclosure; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Mr. BROWN, Mr. WHITEHOUSE, Mr. AKAKA, Mr. DURBIN, Ms. KLOBUCHAR, and Mr. BEGICH):

S. 2833. A bill to provide adjusted Federal medical assistance percentage rates during a transitional assistance period; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. VOINOVICH):

S. 2834. A bill to amend the Intelligence Reform and Terrorism Prevention Act of 2004 to establish a Security Clearance and Suitability Performance Accountability Council and for other purposes; to the Select Committee on Intelligence.

By Mr. KERRY (for himself, Mr. CARDIN, Mr. KAUFMAN, Mrs. GILLIBRAND, and Mr. MENENDEZ):

S. 2835. A bill to reduce global warming pollution through international climate finance, investment, and for other purposes; to the Committee on Foreign Relations.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAPO (for himself and Ms. KLOBUCHAR):

S. Res. 367. A resolution recognizing the 25th anniversary of the enactment of the Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) and the substantial contributions to the Crime Victims Fund made through the criminal prosecutions conducted by the Financial Litigation Units of the United States Attorneys' offices; to the Committee on the Judiciary.

By Mr. NELSON of Florida (for himself and Mr. LEMIEUX):

S. Res. 368. A resolution expressing the sense of the Senate commending coach Bobby Bowden; to the Committee on the Judiciary.

By Mr. MCCONNELL (for himself and Mr. REID):

S. Res. 369. A resolution to permit the collection of clothing, toys, food, and housewares during the holiday season for charitable purposes in Senate buildings; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 132

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 132, a bill to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to expand and improve gang prevention programs, and for other purposes.

S. 760

At the request of Mr. BROWNBAC, his name was added as a cosponsor of S. 760, a bill to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the "National World War I Memorial".

S. 761

At the request of Mr. BROWNBAC, his name was added as a cosponsor of S. 761, a bill to establish the World War I Centennial Commission to ensure a suitable observance of the centennial of World War I, and for other purposes.

S. 827

At the request of Mr. ROCKEFELLER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 827, a bill to establish a program to reunite bondholders with matured unredeemed United States savings bonds.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed

by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1147

At the request of Mr. KOHL, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1147, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1306

At the request of Mr. BUNNING, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 1306, a bill to provide for payment to the survivor or surviving family members of compensation otherwise payable to a contractor employee of the Department of Energy who dies after application for compensation under the Energy Employees Occupational Illness Compensation Program Act of 2000, and for other purposes.

S. 1341

At the request of Mr. MENENDEZ, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1341, a bill to amend the Internal Revenue Code of 1986 to impose an excise tax on certain proceeds received on SILO and LILO transactions.

S. 1423

At the request of Mrs. BOXER, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 1423, a bill to amend title XIX of the Social Security Act to require coverage under the Medicaid Program for freestanding birth center services.

S. 1492

At the request of Ms. MIKULSKI, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1492, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 1583

At the request of Mr. ROCKEFELLER, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1583, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2014, and for other purposes.

S. 1646

At the request of Mr. REED, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1646, a bill to keep Americans working by strengthening and expanding short-time compensation programs that provide employers with an alternative to layoffs.

S. 1780

At the request of Mrs. LINCOLN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1780, a bill to amend title 38, United States Code, to deem certain service in the reserve components as active service for purposes of laws administered by the Secretary of Veterans Affairs.

S. 1809

At the request of Mr. WICKER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1809, a bill to amend the Clean Air Act to promote the certification of aftermarket conversion systems and thereby encourage the increased use of alternative fueled vehicles.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 2730

At the request of Mr. BROWN, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2730, a bill to extend and enhance the COBRA subsidy program under the American Recovery and Reinvestment Act of 2009.

S. 2758

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2758, a bill to amend the Agricultural Research, Extension, and Education Reform Act of 1998 to establish a national food safety training, education, extension, outreach, and technical assistance program for agricultural producers, and for other purposes.

S. 2794

At the request of Mr. SCHUMER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2794, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the donation of wild game meat.

S. 2820

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2820, a bill to prevent the destruction of terrorist and criminal national instant criminal background check system records.

S. RES. 337

At the request of Mr. ENSIGN, his name was added as a cosponsor of S. Res. 337, a resolution designating December 6, 2009, as "National Miners Day".

S. RES. 356

At the request of Mr. DURBIN, his name was added as a cosponsor of S. Res. 356, a resolution calling upon the Government of Turkey to facilitate the reopening of the Ecumenical Patriarchate's Theological School of Halki without condition or further delay.

AMENDMENT NO. 2790

At the request of Mr. CASEY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of amendment No. 2790 intended to be proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain

other Federal employees, and for other purposes.

AMENDMENT NO. 2791

At the request of Ms. MIKULSKI, the names of the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Montana (Mr. TESTER) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of amendment No. 2791 proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

AMENDMENT NO. 2836

At the request of Ms. MURKOWSKI, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of amendment No. 2836 proposed to H.R. 3590, a bill to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 2826. A bill to amend the Internal Revenue Code of 1986 to extend the renewable production credit for wind and open-loop biomass facilities, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, today I am introducing the Clean Renewable Energy Advancement Tax Extension Jobs Act of 2009, or the CREATE Jobs Act of 2009 for short. This is a bill to help all kinds of businesses create jobs and continue pushing ahead on the development of clean renewable energy. My bill extends the tax credit for the production of electricity from wind and open-loop biomass through December 31, 2016.

It increases the amount of bond authority for new clean renewable energy bonds to incentivize more clean renewable energy projects and the jobs created by these projects. For all businesses, my bill extends bonus depreciation for 1 year, so that businesses are able to deduct half of the value of any property placed in service in 2010.

This tax cut for businesses that invest in new property in 2010 will spur investment in clean energy projects, as well as other new projects, and that will create badly needed jobs.

I urge my colleagues to help me in getting this important legislation enacted into law as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2826

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Clean Renewable Energy Advancement Tax Extension Jobs Act of 2009" or the "CREATE Jobs Act".

#### SEC. 2. EXTENSION OF RENEWABLE PRODUCTION CREDIT FOR WIND AND OPEN-LOOP BIOMASS FACILITIES.

(a) WIND.—Section 45(d)(1) of the Internal Revenue Code of 1986 is amended by striking "before January 1, 2013" and inserting "before January 1, 2017".

(b) OPEN-LOOP BIOMASS.—Section 45(d)(3) of the Internal Revenue Code of 1986 is amended by striking "before January 1, 2014" both places it appears and inserting "before January 1, 2017".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

#### SEC. 3. INCREASED LIMITATION ON ISSUANCE OF NEW CLEAN RENEWABLE ENERGY BONDS.

(a) ADDITIONAL LIMITATION.—Section 54C(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(5) FURTHER INCREASE IN LIMITATION.—The national new clean renewable energy bond limitation shall be increased by \$2,200,000,000. Such increase shall be allocated by the Secretary consistent with the rules of paragraphs (2) and (3)."

(b) NONAPPLICATION OF CERTAIN LABOR STANDARDS TO FURTHER INCREASE IN LIMITATION.—Section 1601(1) of the American Recovery and Reinvestment Tax Act of 2009 is amended by inserting "pursuant to section 54C(c)(4) of such Code" after "Act".

(c) NONAPPLICATION OF CERTAIN ARBITRAGE AND ISSUANCE RULES.—Section 54C of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(e) SPECIAL RULES.—For purposes of this section—

"(1) LIMITED ARBITRAGE.—Section 54A(d)(4) shall apply without regard to subparagraph (B) or (C) thereof.

"(2) NO CREDIT STRIPPING.—Section 54A(i) shall not apply."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

#### SEC. 4. ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50 PERCENT OF THE BASIS OF CERTAIN QUALIFIED PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 168(k) of the Internal Revenue Code of 1986, as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended—

(1) by striking "January 1, 2011" and inserting "January 1, 2012", and

(2) by striking "January 1, 2010" each place it appears and inserting "January 1, 2011".

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 of the Internal Revenue Code of 1986, as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended by striking "JANUARY 1, 2010" and inserting "JANUARY 1, 2011".

(2) The heading for clause (ii) of section 168(k)(2)(B) of such Code, as so amended, is amended by striking "PRE-JANUARY 1, 2010" and inserting "PRE-JANUARY 1, 2011".

(3) Subparagraph (B) of section 168(l)(5) of such Code, as so amended, is amended by striking "January 1, 2010" and inserting "January 1, 2011".

(4) Subparagraph (C) of section 168(n)(2) of such Code, as so amended, is amended by striking "January 1, 2010" and inserting "January 1, 2011".

(5) Subparagraph (D) of section 1400L(b)(2) of such Code is amended by striking "January 1, 2010" and inserting "January 1, 2011".

(6) Subparagraph (B) of section 1400N(d)(3) of such Code, as so amended, is amended by striking "January 1, 2010" and inserting "January 1, 2011".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after December 31, 2009.

By Mr. KERRY:

S. 2828. A bill to amend the Public Health Service Act to authorize the National Institute of Environmental Health Sciences to conduct a research program on endocrine disruption, to prevent and reduce the production of, and exposure to, chemicals that can undermine the development of children before they are born and cause lifelong impairment to their health and function, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KERRY. Mr. President, there are approximately 80,000 known chemicals in our environment that are potentially harmful. Many of those chemicals are not tested to determine if they are damaging to our health. This includes products Americans use every day such as household cleaners, cosmetics or personal care products.

The increased rate of disorders affecting the human endocrine system is alarming. Children developing in the womb may be particularly vulnerable. We can see the effects in our environment. Some fish in our lakes and rivers are developing gender mutations. We know there may be connections between these effects and the chemicals around us and it is time to learn more about it. That is why I am proud to introduce the Endocrine Disruption Prevention Act.

The Endocrine Disruption Prevention Act simply authorizes the National Institute of Environmental Health Sciences to conduct a research program on chemicals that may pose a risk to our health. This will streamline research efforts so more useful and complete data will be available to Federal agencies with the responsibility of regulating chemicals. This bill allows agencies to take action based on findings and to report to Congress with what actions were taken.

This bill promotes action based on hard, scientific evidence. I urge my colleagues to support this bill.

By Mr. WYDEN (for himself, Ms. STABENOW, and Mrs. GILLIBRAND):

S. 2829. A bill to amend the Internal Revenue Code of 1986 to allow the cost of labor for building envelope improvements to be included for purposes of the nonbusiness energy property tax credit; to the Committee on Finance.

Mr. WYDEN. Mr. President, the Federal tax code is in great need of an overhaul and today I am introducing legislation to fix one small piece of it. My legislation will help struggling homeowners who are seeing their money literally going out the window as their heating costs go through the roof.

The current tax code gives homeowners a tax credit for installing energy efficiency improvements, which is all well and good, but it only allows labor costs to be included for improvements inside their homes. If the homeowner is installing a new energy efficient furnace, labor costs are included in the expenses eligible for the tax credit. But for improvements like installing energy efficient windows, or doors, or insulation, or energy efficient roofing materials—improvements where labor is a major part of the cost, the tax credit only covers the cost of the materials and not the labor to install them. If this seems counterintuitive and counterproductive, that's because it is. Tilting the tax code to favor some types of home improvements over others is not a sound foundation for tax policy or energy policy.

This legislation, which Senators STABENOW and GILLIBRAND have joined with me to cosponsor, will fix this problem by including labor costs for all eligible energy efficiency improvements whether to the heating system or to the roof. Our legislation doesn't change the amount of the overall credit or the kinds of energy efficiency improvements that can be made. It just makes it clear that the credit applies equally to labor costs to install all of the qualifying residential energy efficiency improvements, not just some. This will create a level playing field for homeowners when they are trying to decide which improvements to make especially for more labor intensive projects like installing insulation or new energy efficient roofing. It will also make all of these building energy saving opportunities more affordable. Most importantly, it will help Americans actually save energy and it will create jobs for those workers manufacturing and installing new, energy efficiency products.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2829

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MODIFICATION TO NONBUSINESS ENERGY PROPERTY CREDIT.**

(a) **IN GENERAL.**—Paragraph (1) of section 25C(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

“Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the component.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

By Mr. BINGAMAN (for himself, Mr. HATCH, Mr. BENNETT, Mr. UDALL of New Mexico, Mr. UDALL of Colorado, and Mr. BENNETT):

S. 2830. A bill to amend the Surface Mining Control and Reclamation Act of

1977 to clarify that uncertified States and Indian tribes have the authority to use certain payments for certain noncoal reclamation projects; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise to introduce a bill important to public health and safety and the environment in the West. This legislation addresses an interpretation by the Department of the Interior, DOI, which restricts the ability of States to use certain funds under the Abandoned Mine Land, AML, Program authorized by the Surface Mining Control and Reclamation Act, SMCRA, for non-coal mine reclamation.

The Tax Relief and Health Care Act of 2006 contained amendments to SMCRA reauthorizing collection of an AML fee on coal produced in the U.S. and making certain modifications to the AML program. Under this program, which is administered by DOI, funds are expended to reclaim abandoned mine lands, with top priority for protecting public health, safety, general welfare, and property, and restoration of land and water resources adversely affected by past mining practices. The program is largely directed to abandoned coal mine reclamation, but under section 409 of SMCRA, funds have been available to address non-coal mine sites.

Pursuant to a Memorandum Opinion, M-37014, issued by the DOI's Solicitor on December 5, 2007, the Department has interpreted the amendments in a manner that limits the ability of western States to use certain funds under SMCRA to address significant problems relating to non-coal abandoned mines. This is in spite of the fact that these funds had previously been available for these purposes. In accordance with section 409 of SMCRA, western States such as New Mexico, Colorado, and Utah, have prioritized the use of AML funds to undertake the most pressing reclamation work on both coal and non-coal mine sites. While activities on non-coal sites have consumed a relatively insignificant portion of the funding provided for the overall AML program, the results in terms of public health and safety in these States is considerable, and there is significant work yet to be done. For example, New Mexico alone has over 15,000 remaining mine openings with a vast majority of these being non-coal. Uranium mine reclamation is a particular priority in New Mexico. All AML-related fatalities in New Mexico in the last few decades have been at non-coal mine sites.

The bill that I am introducing today would correct what I believe is an unfortunate interpretation of the 2006 Amendments by modifying the language of SMCRA to clarify that the funding would be available for non-coal reclamation as it was prior to the passage of the amendments in 2006. Under the bill, which makes a conforming change to sections 409 and 411 of SMCRA, western, non-certified States

could continue to use their State share balances, including amounts comprising their so-called previously unappropriated State share balances, for non-coal reclamation.

I hope that my colleagues will support this legislation, which has important implications for abandoned mine clean-up in the West.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2830

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. ABANDONED MINE RECLAMATION.

(a) LIMITATION ON FUNDS.—Section 409(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1239(b)) is amended by inserting “or section 411(h)(1)” after “section 402(g)”.

(b) USE OF FUNDS.—Section 411(h)(1)(D)(ii) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a(h)(1)(D)(ii)) is amended by inserting “or 409” after “section 403”.

By Mr. REED (for himself, Mr. SCHUMER, Mrs. SHAHEEN, Mr. LEAHY, Mr. KERRY, Mr. DODD, Mr. WHITEHOUSE, and Mr. CASEY):

S. 2831. A bill to provide for additional emergency unemployment compensation and to keep Americans working, and for other purposes; to the Committee on Finance.

Mr. REED. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2831

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Helping Unemployed Workers Act”.

#### SEC. 2. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment Compensation Extension Act of 2008 (Public Law 110-449; 122 Stat. 5015) and section 2001(a) of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111-5; 123 Stat. 436), is amended—

(1) by striking “December 31, 2009” each place it appears and inserting “December 31, 2010”;

(2) in the heading for subsection (b)(2), by striking “DECEMBER 31, 2009” and inserting “DECEMBER 31, 2010”; and

(3) in subsection (b)(3), by striking “May 31, 2010” and inserting “May 31, 2011”.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by section 6 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111-92), is amended by striking “by reason of” and all that follows and inserting the following: “by reason of—

“(A) the amendments made by section 2001(a) of the Assistance for Unemployed Workers and Struggling Families Act;

“(B) the amendments made by sections 2 through 4 of the Worker, Homeownership, and Business Assistance Act of 2009; and

“(C) the amendments made by section 2(a) of the Helping Unemployed Workers Act; and”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of the Supplemental Appropriations Act, 2008.

#### SEC. 3. EXTENSION OF INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(a) IN GENERAL.—Section 2002(e) of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111-5; 123 Stat. 438) is amended—

(1) in paragraph (1)(B), by striking “January 1, 2010” and inserting “January 1, 2011”;

(2) in the heading for paragraph (2), by striking “JANUARY 1, 2010” and inserting “JANUARY 1, 2011”; and

(3) in paragraph (3), by striking “June 30, 2010” and inserting “June 30, 2011”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Assistance for Unemployed Workers and Struggling Families Act.

#### SEC. 4. EXTENSION OF FULL FEDERAL FUNDING OF EXTENDED UNEMPLOYMENT COMPENSATION FOR A LIMITED PERIOD.

(a) IN GENERAL.—Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111-5; 26 U.S.C. 3304 note) is amended—

(1) by striking “January 1, 2010” each place it appears and inserting “January 1, 2011”; and

(2) in subsection (c), by striking “June 1, 2010” and inserting “June 1, 2011”.

(b) EXTENSION OF TEMPORARY FEDERAL MATCHING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR STATES WITH NO WAITING WEEK.—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110-449; 26 U.S.C. 3304 note), as amended by section 2005(d) of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111-5; 26 U.S.C. 3304 note), is amended by striking “May 30, 2010” and inserting “May 30, 2011”.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Assistance for Unemployed Workers and Struggling Families Act.

(2) FIRST WEEK.—The amendment made by subsection (b) shall take effect as if included in the enactment of the Unemployment Compensation Extension Act of 2008.

#### SEC. 5. MODIFICATION TO ELIGIBILITY REQUIREMENTS FOR EMERGENCY UNEMPLOYMENT COMPENSATION.

(a) INDIVIDUAL NOT INELIGIBLE BY REASON OF SUBSEQUENT ENTITLEMENT TO REGULAR BENEFITS.—Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended by adding at the end the following new subsection:

“(g) CERTAIN RIGHTS TO REGULAR COMPENSATION DISREGARDED.—If an individual exhausted the individual’s rights to regular compensation for any benefit year, such individual’s eligibility to receive emergency unemployment compensation under this title in respect of such benefit year shall be determined without regard to any rights to regular compensation for a subsequent benefit year if such individual does not file a claim for regular compensation for such subsequent benefit year.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

(2) TRANSITION RULES.—

(A) WAIVER OF RECOVERY OF CERTAIN OVERPAYMENTS.—On and after the date of the enactment of this Act, no repayment of any emergency unemployment compensation shall be required under section 4005 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) if the individual would have been entitled to receive such compensation had the amendment made by subsection (a) applied to all weeks beginning on or before the date of the enactment of this Act.

(B) WAIVER OF RIGHTS TO CERTAIN REGULAR BENEFITS.—If—

(i) before the date of the enactment of this Act, an individual exhausted the individual’s rights to regular compensation for any benefit year, and

(ii) after such exhaustion, such individual was not eligible to receive emergency unemployment compensation under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) by reason of being entitled to regular compensation for a subsequent benefit year,

such individual may elect to defer the individual’s rights to regular compensation for such subsequent benefit year with respect to weeks beginning after such date of enactment until such individual has exhausted the individual’s rights to emergency unemployment compensation in respect of the benefit year referred to in clause (i), and such individual shall be entitled to receive emergency unemployment compensation for such weeks in the same manner as if the individual had not been entitled to the regular compensation to which the election applies.

#### SEC. 6. SUSPENSION OF TAX ON PORTION OF UNEMPLOYMENT COMPENSATION.

(a) IN GENERAL.—Section 85(c) of the Internal Revenue Code of 1986 is amended—

(1) by inserting “or 2010” after “in 2009”, and

(2) by inserting “AND 2010” in the heading after “2009”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

#### SEC. 7. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.

(a) IN GENERAL.—Section 3306 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(v) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this chapter, the term ‘short-time compensation program’ means a program under which—

“(1) the participation of an employer is voluntary;

“(2) an employer reduces the number of hours worked by employees through certifying that such reductions are in lieu of temporary layoffs;

“(3) such employees whose workweeks have been reduced by at least 10 percent are eligible for unemployment compensation;

“(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would be payable to the employee if such employee were totally unemployed;

“(5) such employees are not expected to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek;

“(6) eligible employees may participate in an employer-sponsored training program to enhance job skills if such program has been approved by the State agency;



“(7) beginning on the date which is 2 years after the date of enactment of this subsection, the employer certifies that continuation of health benefits and retirement benefits under a defined benefit pension plan (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974) is not affected by participation in the program;

“(8) the employer (or an employer’s association which is party to a collective bargaining agreement) submits a written plan describing the manner in which the requirements of this subsection will be implemented and containing such other information as the Secretary of Labor determines is appropriate;

“(9) in the case of employees represented by a union, the appropriate official of the union has agreed to the terms of the employer’s written plan and implementation is consistent with employer obligations under the National Labor Relations Act; and

“(10) the program meets such other requirements as the Secretary of Labor determines appropriate.”

(b) ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.—

(1) ASSISTANCE AND GUIDANCE.—

(A) IN GENERAL.—In order to assist States in establishing, qualifying, and implementing short-time compensation programs, as defined in section 3306(v) of the Internal Revenue Code of 1986 (as added by subsection (a)), the Secretary of Labor (in this section referred to as the “Secretary”) shall—

(i) develop model legislative language which may be used by States in developing and enacting short-time compensation programs and shall periodically review and revise such model legislative language;

(ii) provide technical assistance and guidance in developing, enacting, and implementing such programs;

(iii) establish biannual reporting requirements for States, including number of averted layoffs, number of participating companies and workers, and retention of employees following participation; and

(iv) award start-up grants to State agencies under subparagraph (B).

(B) GRANTS.—

(i) IN GENERAL.—The Secretary shall award start-up grants to State agencies that apply not later than June 30, 2011, in States that enact short-time compensation programs after the date of enactment of this Act for the purpose of creating such programs. The amount of such grants shall be awarded depending on the costs of implementing such programs.

(ii) ELIGIBILITY.—In order to receive a grant under clause (i) a State agency shall meet requirements established by the Secretary, including any reporting requirements under clause (iii). Each State agency shall be eligible to receive not more than one such grant.

(iii) REPORTING.—The Secretary may establish reporting requirements for State agencies receiving a grant under clause (i) in order to provide oversight of grant funds used by States for the creation of short-time compensation programs.

(iv) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary, such sums as the Secretary certifies as necessary for the period of fiscal years 2010 and 2011 to carry out this subparagraph.

(2) TIMEFRAME.—The initial model legislative language referred to in paragraph (1)(A) shall be developed not later than 60 days after the date of enactment of this Act.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress and to the President a report or reports on the im-

plementation of this section. Such report or reports shall include—

(A) a study of short-time compensation programs;

(B) an analysis of the significant impediments to State enactment and implementation of such programs; and

(C) such recommendations as the Secretary determines appropriate.

(2) SUBSEQUENT REPORTS.—After the submission of the report under paragraph (1), the Secretary may submit such additional reports on the implementation of short-time compensation programs as the Secretary deems appropriate.

(3) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary, \$1,500,000 to carry out this subsection, to remain available without fiscal year limitation.

(d) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—

(A) Subparagraph (E) of section 3304(a)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

“(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v));”

(B) Subsection (f) of section 3306 of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (5) (relating to short-term compensation) and inserting the following new paragraph:

“(5) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in subsection (v));”

(ii) by redesignating paragraph (5) (relating to self-employment assistance program) as paragraph (6).

(2) SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act is amended by striking “the payment of short-time compensation under a plan approved by the Secretary of Labor” and inserting “the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986).”

(3) REPEAL.—Subsections (b) through (d) of section 401 of the Unemployment Compensation Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

**SEC. 8. TEMPORARY FINANCING OF CERTAIN SHORT-TIME COMPENSATION PROGRAMS.**

(a) PAYMENTS TO STATES WITH CERTIFIED PROGRAMS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall establish a program under which the Secretary shall make payments to any State unemployment trust fund to be used for the payment of unemployment compensation if the Secretary approves an application for certification submitted under paragraph (3) for such State to operate a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986 (as added by section 7(a))) which requires the maintenance of health and retirement employee benefits as described in paragraph (7) of such section 3306(v), in addition to other requirements of this Act and notwithstanding the otherwise effective date of such requirement.

(2) REIMBURSEMENT.—Subject to subsection (d), the payment to a State under paragraph (1) shall be an amount equal to 100 percent of the total amount of benefits paid to individuals by the State pursuant to the short-time compensation program during the weeks of unemployment—

(A) beginning on or after the date the certification is issued by the Secretary with respect to such program; and

(B) ending on or before December 31, 2011.

(3) CERTIFICATION REQUIREMENTS.—

(A) IN GENERAL.—Any State seeking full reimbursement under this subsection shall submit an application for certification at such time, in such manner, and complete with such information as the Secretary may require (whether by regulation or otherwise), including information relating to compliance with the requirements of paragraph (7) of such section 3306(v). The Secretary shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary’s findings with respect to the requirements of such paragraph (7).

(B) FINDINGS.—If the Secretary finds that the short-time compensation program operated by the State meets the requirements of such paragraph (7), the Secretary shall certify such State’s short-time compensation program thereby making such State eligible for reimbursement under this subsection.

(b) TIMING OF APPLICATION SUBMITTALS.—No application under subsection (a)(3) may be considered if submitted before the date of enactment of this Act or after the latest date necessary (as specified by the Secretary) to ensure that all payments under this section are made before December 31, 2011.

(c) TERMS OF PAYMENTS.—Payments made to a State under subsection (a)(1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary’s estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(d) LIMITATIONS.—

(1) GENERAL PAYMENT LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State in excess of 26 weeks of benefits.

(2) EMPLOYER LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State pursuant to a short-time compensation program if such individual is employed by an employer—

(A) whose workforce during the 3 months preceding the date of the submission of the employer’s short-time compensation plan has been reduced by temporary layoffs of more than 20 percent; or

(B) on a seasonal, temporary, or intermittent basis.

(3) PROGRAM PAYMENT LIMITATION.—In making any payments to a State under this section pursuant to a short-time compensation program, the Secretary may limit the frequency of employer participation in such program.

(e) RETENTION REQUIREMENT.—

(1) IN GENERAL.—A participating employer under this section is required to comply with the terms of the written plan approved by the State agency and act in good faith to retain participating employees.

(2) OVERSIGHT AND MONITORING.—The Secretary shall establish an oversight and monitoring process by which State agencies will ensure that participating employers comply with the requirements of paragraph (1).

(f) FUNDING.—There are appropriated, from time to time, out of any moneys in the Treasury not otherwise appropriated, to the

Secretary, such sums as the Secretary certifies are necessary to carry out this section (including to reimburse any additional administrative expenses by reason of the provision of, and amendments made by, this Act that are incurred by the States in operating such short-time compensation programs).

(g) **DEFINITION OF STATE.**—In this section, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(h) **SUNSET.**—The provisions of this section shall not apply after December 31, 2011.

**SEC. 9. STUDY AND REPORTS ON THE EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.**

(a) **STUDY.**—The Secretary of Labor (in this section referred to as the “Secretary”) shall conduct a study on the implementation of the emergency unemployment compensation program under title IV of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by section 2 and the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111-92). Such study shall include an analysis of—

(1) the different tiers under such program;

(2) the number of initial claims under such program, the average duration of benefits under the program, the average sum of benefits under the program, and other areas that demonstrate who received benefits under the program;

(3) any significant impediments to State implementation of such program;

(4) the significant administration weaknesses and strengths of such programs; and

(5) other areas determined appropriate by the Secretary.

(b) **REPORTS.**—

(1) **IN GENERAL.**—Not later than 4 years after the date of the enactment of this Act, the Secretary shall submit to Congress and the President a report (or multiple reports) on the study conducted under subsection (a), together with such recommendations as the Secretary determines appropriate.

(2) **SUBSEQUENT REPORTS.**—After the Secretary submits the report (or reports) required under paragraph (1), the Secretary may submit such additional reports on the implementation of emergency unemployment compensation programs as the Secretary deems appropriate.

(c) **FUNDING.**—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary, \$1,250,000 to carry out this section, to remain available without fiscal year limitation.

By Mr. BINGAMAN (for himself, Mr. ISAKSON, and Mr. KOHL):

S. 2832. A bill to amend the Employee Retirement Income Security Act of 1974 to require a lifetime income disclosure; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Lifetime Income Disclosure Act, to help Americans ensure they do not outlive their retirement savings. I am pleased to be joined by my colleague on the Health, Education, Labor and Pensions Committee, Senator ISAKSON, and the Chairman of the Aging Committee, Senator KOHL, in introducing the Act. In sum, the Act would require private defined contribution retirement plans annually to show plan participants how their account balances translate into monthly income equivalents, based on age at retirement and other factors. The act is structured so as not to impose a material burden on employers.

As life expectancies rise, individuals have an increasing need for protection against the risk that they will outlive their savings. In fact, Boston College's National Retirement Risk Index recently found that half of American households are “at risk” of being unable to maintain their pre-retirement standard of living in retirement.

But trends in retirement plan coverage are only increasing this risk. Defined benefit pension plans—to which employers make regular fixed contributions—are becoming rare. Individuals who receive any form of workplace retirement account are increasingly offered the opportunity to contribute to defined contribution plans, like 401(k)s, to which the employer may or may not provide a matching contribution. At present, 401(k) plan statements typically provide a total account balance, but not a monthly income equivalent. Consequently, employees are not well-prepared to evaluate whether they are saving adequately to maintain cost of their current standard of living in retirement.

To address this challenge, the act would require that defined contribution plans subject to ERISA, such as 401(k) plans, include “annuity equivalents” on benefit statements provided to employees. An annuity equivalent is the monthly annuity payment that would be made if the employee's total account balance were used to buy a life annuity that commenced payments at the plan's normal retirement age, generally 65. The act requires the statement to show the monthly annuity payments under both a single life annuity and a qualified joint and survivor annuity—that is, an annuity with survivor benefits payable for life to the employee's spouse. The annuity equivalents would only be required to be provided once a year, even where quarterly statements are otherwise required.

In this regard, 401(k) benefit statements would become better coordinated with Social Security benefit statements, which only express benefits in the form of a life annuity. Knowing the amount of monthly income they can expect from Social Security and their defined contribution plan will help employees determine whether they are on the path to a secure retirement. Additionally, including annuity equivalents on benefit statements will make employees more aware of the possibility upon retirement of receiving at least a portion of their benefit in the form of an annuity that protects them against outliving their savings.

As I have already discussed, this proposal addresses a critical public policy issue. But it is equally important that the proposal be structured not to impose any material burden or potential liability on employers that voluntarily maintain a plan. Thus, the act directs the Department of Labor to issue, within a year, assumptions that employers may use in converting a lump sum amount into an annuity equivalent.

Accordingly, employers will be able to base their annuity equivalents entirely on clear mechanical assumptions prescribed by the DOL. Of course, to the extent that a participant's benefit is or may be invested in an annuity contract that guarantees a specified annuity benefit, the DOL shall, to the extent appropriate, permit such specified benefit to be treated as an annuity equivalent.

The DOL would further be directed to issue, within a year, a model disclosure that explains the assumptions used to determine the annuity equivalents and the fact that the annuity equivalents provided are only estimates. This model disclosure would include a clear explanation that actual annuity benefits may be materially different from such estimates.

The act also provides employers with a clear path to avoid liability: under the act, employers and service providers using the model disclosure and following the prescribed assumptions and DOL rules would not have any liability with regard to the provision of annuity equivalents. This exemption from liability would apply to any disclosure of an annuity equivalent that incorporates the explanation from the model disclosure and that is prepared in accordance with the prescribed assumptions and DOL rules. For example, subject to such conditions, the exemption would apply to annuity equivalents available on a Web site or provided quarterly.

Finally, the act would not go into effect until a year after the DOL has issued the guidance needed by employers to implement the new rules.

Our proposal is a small step, but one that can make a significant difference in beginning to tackle a key policy challenge. I am pleased that the act enjoys the support of many advocates for retirement security, including AARP, the Women's Institute for a Secure Retirement, and the Council of Independent 401(k) Recordkeepers. I look forward to working with Senators ISAKSON and KOHL to see these provisions enacted into law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2832

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Lifetime Income Disclosure Act”.

**SEC. 2. DISCLOSURE REGARDING LIFETIME INCOME.**

(a) **IN GENERAL.**—Subparagraph (B) of section 105(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025(a)(2)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking “diversification.” and inserting “diversification, and”; and

(3) by inserting at the end the following:

“(iii) the lifetime income disclosure described in subparagraph (D)(i).

In the case of pension benefit statements described in clause (i) of paragraph (1)(A), a lifetime income disclosure under clause (iii) of this subparagraph shall only be required to be included in one pension benefit statement in each calendar year.”.

(b) **LIFETIME INCOME.**—Paragraph (2) of section 105(a) of such Act (29 U.S.C. 1025(a)) is amended by adding at the end the following new subparagraph:

“(D) **LIFETIME INCOME DISCLOSURE.**—

“(i) **IN GENERAL.**—

“(I) **DISCLOSURE.**—A lifetime income disclosure shall set forth the annuity equivalent of the total benefits accrued with respect to the participant or beneficiary.

“(II) **ANNUITY EQUIVALENT OF THE TOTAL BENEFITS ACCRUED.**—For purposes of this subparagraph, the ‘annuity equivalent of the total benefits accrued’ means the amount of monthly payments the participant or beneficiary would receive at the plan’s normal retirement age if the total accrued benefits of such participant or beneficiary were used on the date of the lifetime income disclosure to purchase the life annuities described in subclause (III), with payments under such annuities commencing at the plan’s normal retirement age.

“(III) **LIFE ANNUITIES.**—The life annuities described in this subclause are a qualified joint and survivor annuity (as defined in section 205(d)), based on assumptions specified in rules prescribed by the Secretary, including the assumption that the participant or beneficiary has a spouse of equal age, and a single life annuity. Such annuities may have a term certain or other features to the extent permitted under rules prescribed by the Secretary.

“(ii) **MODEL DISCLOSURE.**—Not later than 1 year after the date of the enactment of the Lifetime Income Disclosure Act, the Secretary shall issue a model lifetime income disclosure, written in a manner so as to be understood by the average plan participant, that—

“(I) explains that the annuity equivalent is only provided as an illustration;

“(II) explains that the actual annuity payments that may be purchased with the total benefits accrued will depend on numerous factors and may vary substantially from the annuity equivalent in the disclosures;

“(III) explains the assumptions upon which the annuity equivalent was determined; and

“(IV) provides such other similar explanations as the Secretary considers appropriate.

“(iii) **ASSUMPTIONS AND RULES.**—Not later than 1 year after the date of the enactment of the Lifetime Income Disclosure Act, the Secretary shall—

“(I) prescribe assumptions that administrators of individual account plans may use in converting total accrued benefits into annuity equivalents for purposes of this subparagraph; and

“(II) issue interim final rules under clause (i).

In prescribing assumptions under subclause (I), the Secretary may prescribe a single set of specific assumptions (in which case the Secretary may issue tables or factors that facilitate such conversions), or ranges of permissible assumptions. To the extent that an accrued benefit is or may be invested in an annuity contract, the assumptions prescribed under subclause (I) shall, to the extent appropriate, permit administrators of individual account plans to use the amounts payable under such contract as an annuity equivalent.

“(iv) **LIMITATION ON LIABILITY.**—No plan fiduciary, plan sponsor, or other person shall

have any liability under this title solely by reason of the provision of annuity equivalents which are derived in accordance with the assumptions and rules described in clause (iii) and which include the explanations contained in the model lifetime income disclosure described in clause (ii). This clause shall apply without regard to whether the provision of such annuity equivalent is required by subparagraph (B)(iii).

“(v) **EFFECTIVE DATE.**—The requirement in subparagraph (B)(iii) shall apply to pension benefit statements furnished more than 12 months after the latest of the issuance by the Secretary of—

“(I) interim final rules under clause (i);

“(II) the model disclosure under clause (ii); or

“(III) the assumptions under clause (iii).”.

By Mr. REED (for himself, Mr. BROWN, Mr. WHITEHOUSE, Mr. AKAKA, Mr. DURBIN, Ms. KLOBUCHAR, and Mr. BEGICH):

S. 2833. A bill to provide adjusted Federal medical assistance percentage rates during a transitional assistance period; to the Committee on Finance.

Mr. REED. Mr. President, I rise today to introduce the Transitional Federal Medical Assistance Percentage, FMAP, Act, and I am pleased to do so with the support of Senators BROWN, WHITEHOUSE, AKAKA, DURBIN, KLOBUCHAR, and BEGICH. This bill is an important step in continuing the conversation about how we can help our States, businesses, and individuals as our economy recovers.

In my State of Rhode Island, the economic downturn has been particularly hard hitting on families and businesses. As a result, the State has seen a decline in tax revenue and an increased enrollment in safety net programs like Medicaid. Revenue from the sales tax is down over 7 percent, income tax receipts are down 2.3 percent, and corporate tax revenue is down nearly 10 percent. At the same time, unemployment rates have soared to new heights, topping 13 percent earlier this year. In the past 2 years, 40,000 Rhode Islanders have lost their employer-sponsored health insurance. Many of these individuals have come to rely on Medicaid for health coverage. This has caused great strain on the State’s resources and its Medicaid program. In November, we learned that the estimated Medicaid caseload for the year will cost over \$40 million more than what the State had initially estimated in its budget.

The American Recovery and Reinvestment Act, which I supported, provided States with additional Federal assistance through 2010. States have used these funds to help balance their budgets, minimize harmful cuts in public services, and, very importantly, to prevent tax increases in many cases. However, even with the funding from the Recovery Act, Rhode Island will close the current fiscal year \$219.8 million in the red.

A total of 38 States have looked ahead to fiscal year 2011, and they have estimated \$92 billion in combined deficits in the coming year. As the State

fiscal year nears, and more States have had ample time to analyze their fiscal health it is expected that the total shortfall will likely equal \$180 billion.

As Congress debates health reform and works to ensure that every American has access to health insurance in 2014, we must not forget about ensuring that Americans have access to health insurance between now and then, as the economy slowly recovers and as state budgets begin to heal. During this tough time we need to help individuals, businesses, and States, and I am particularly concerned with making sure our States have the resources to provide adequate health care.

Unless Congress acts on FMAP legislation, States will be forced to use their limited resources to cover an expanded Medicaid population beginning in January 2011. Since States are planning their fiscal year 2011 budgets, which will begin in July, many Governors are requesting Congress act now to provide States with additional Federal support.

The Transitional FMAP Act would extend the enhanced FMAP funding which we passed in the Recovery Act for two additional quarters. This extension accounts for the prolonged recession and ensures that the pressure of Medicaid needs do not overwhelm the States. The bill would also begin a slow decrease of enhanced FMAP funding from July 2011 through December 2013. This will help States as they recover and ensure that States do not experience a gap in assistance prior to health reform-related FMAP levels beginning in January 2014.

Mr. President, this additional funding is important for States, businesses, and individuals. I know that Chairman BAUCUS and Leader REID are well aware of the importance of FMAP and have a history to working to aid our States. I look forward to working with them and my other colleagues to provide States with necessary additional Federal Medicaid assistance.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2833

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Transitional Federal Medical Assistance Percentage Act”.

#### SEC. 2. EXTENSION OF ARRA INCREASE IN FMAP.

Section 5001 of ARRA is amended—

(1) in subsection (a)(3), by striking “first calendar quarter” and inserting “first 3 calendar quarters”;

(2) in subsection (b)(2), by inserting before the period at the end the following: “and such paragraph shall not apply to calendar quarters beginning on or after October 1, 2010”;

(3) in subsection (d), by inserting “ending before October 1, 2010” after “entire fiscal years” and after “with respect to fiscal years”;

(4) in subsection (g)(1), by striking “September 30, 2011” and inserting “December 31, 2011”; and

(5) in subsection (h)(3), by striking “December 31, 2010” and inserting “June 30, 2011”.

### SEC. 3. ARRA TRANSITIONAL ASSISTANCE PERIOD.

For each fiscal quarter occurring during the period beginning on July 1, 2011, and ending on December 31, 2013 (referred to in this Act as the “ARRA transitional assistance period”), a State’s FMAP shall be equal to the sum of—

(1) the adjusted base FMAP (as determined under section 4(a)(1));

(2) the general FMAP adjustment (as determined under section 4(a)(2)); and

(3) the unemployment FMAP adjustment (as determined under section 4(a)(3)).

### SEC. 4. ADJUSTMENTS TO FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

(a) DETERMINATION OF ADJUSTED FMAP.—

(1) ADJUSTED BASE FMAP.—

(A) IN GENERAL.—Subject to subparagraph (B), the adjusted base FMAP is determined as follows:

(i) For the fourth quarter of fiscal year 2011, the FMAP that would have applied to the State under section 5001(a) of ARRA (assuming that such section applied) for such fiscal quarter minus 2 percentage points.

(ii) For any subsequent fiscal quarter occurring during the ARRA transitional assistance period, the FMAP as determined under this paragraph for the preceding fiscal quarter minus 2 percentage points.

(B) ELIMINATION OF NEGATIVE ADJUSTMENT.—If the adjusted base FMAP applicable to a State under this paragraph for any fiscal quarter occurring during the ARRA transitional assistance period would be less than the FMAP determined for the State for such quarter without regard to this paragraph, this paragraph shall not apply to such State.

(2) GENERAL FMAP ADJUSTMENT.—The general FMAP adjustment shall be equal to the following:

(A) For the fourth quarter of fiscal year 2011, 5.7 percentage points.

(B) For the first quarter of fiscal year 2012, 4.95 percentage points.

(C) For the second quarter of fiscal year 2012, 3.95 percentage points.

(D) For the third quarter of fiscal year 2012, 2.7 percentage points.

(E) For the fourth quarter of fiscal year 2012, 1.2 percentage points.

(F) For any subsequent fiscal quarter occurring during the ARRA transitional assistance period, 0.2 percentage points.

(3) UNEMPLOYMENT FMAP ADJUSTMENT.—

(A) IN GENERAL.—Subject to subparagraphs (C) and (D), the unemployment FMAP adjustment shall be equal to the increase in the State’s FMAP that would have applied to the State under section 5001(c) of ARRA (assuming that such section applied) for such fiscal quarter minus the applicable reduction amount (as described under subparagraph (B)).

(B) APPLICABLE REDUCTION AMOUNT.—For purposes of subparagraph (A), the applicable reduction amount shall be equal to the following:

(i) For the fourth fiscal quarter of fiscal year 2011, 0.20 percentage points.

(ii) For any subsequent fiscal quarter occurring during the ARRA transitional assistance period, the sum of—

(I) the applicable reduction amount for the preceding fiscal quarter; and

(II) 0.05 percentage points.

(C) ELIMINATION OF NEGATIVE ADJUSTMENT.—If the unemployment FMAP adjustment applicable to a State under this paragraph for any fiscal quarter during the

ARRA transitional assistance period would be less than zero, this paragraph shall not apply to such State.

(D) SPECIAL RULE.—

(i) IN GENERAL.—For purposes of subparagraph (A), with respect to the computation of the state unemployment increase percentage (as described under section 5001(c)(4) of ARRA) for the last 2 fiscal quarters of the ARRA transitional assistance period, the most recent previous 3-consecutive-month period (as described under section 5001(c)(4)(A)(i) of ARRA) shall be the 3-consecutive-month period beginning with December 2012, or, if it results in a higher applicable percent under section 5001(c)(3) of ARRA, the 3-consecutive-month period beginning with January 2013.

(ii) REPEAL OF SPECIAL RULE UNDER ARRA FOR LAST 2 CALENDAR QUARTERS OF THE RECESSION ADJUSTMENT PERIOD.—Section 5001(c)(4) of ARRA is amended by striking subparagraph (C) and inserting the following:

“(C) SPECIAL RULE.—With respect to the first 2 calendar quarters of the recession adjustment period, the most recent previous 3-consecutive-month period described in subparagraph (A)(i) shall be the 3-consecutive-month period beginning with October 2008.”

(b) SCOPE OF APPLICATION.—The adjustments in the FMAP for a State under this section shall apply for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r-4);

(2) payments under title IV of such Act (42 U.S.C. 601 et seq.) (except that the increases under paragraphs (1) and (2) of subsection (a) shall apply to payments under part E of title IV of such Act (42 U.S.C. 670 et seq.) and, for purposes of the application of this section to the District of Columbia, payments under such part shall be deemed to be made on the basis of the FMAP applied with respect to such District for purposes of title XIX and as increased under subsection (a)(2));

(3) any payments under title XXI of such Act (42 U.S.C. 1397aa et seq.);

(4) any payments under title XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)); or

(5) any payments under title XIX of such Act that are attributable to expenditures for medical assistance provided to individuals made eligible under a State plan under title XIX of the Social Security Act (including under any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) because of income standards (expressed as a percentage of the poverty line) for eligibility for medical assistance that are higher than the income standards (as so expressed) for such eligibility as in effect on July 1, 2008, (including as such standards were proposed to be in effect under a State law enacted but not effective as of such date or a State plan amendment or waiver request under title XIX of such Act that was pending approval on such date).

(c) STATE INELIGIBILITY; LIMITATION; SPECIAL RULES.—

(1) MAINTENANCE OF ELIGIBILITY REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and (C), a State is not eligible for an increase in its FMAP under subsection (a) if eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) are more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(B) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—Subject to subparagraph (C), a State that has restricted eligibility standards, methodologies, or procedures under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after July 1, 2008, is no longer ineligible under subparagraph (A) beginning with the first calendar quarter in which the State has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008.

(C) SPECIAL RULES.—A State shall not be ineligible under subparagraph (A)—

(i) for the fiscal quarters before October 1, 2011, on the basis of a restriction that was applied after July 1, 2008, and before the date of the enactment of this Act, if the State prior to October 1, 2011, has reinstated eligibility standards, methodologies, or procedures that are no more restrictive than the eligibility standards, methodologies, or procedures, respectively, under such plan (or waiver) as in effect on July 1, 2008; or

(ii) on the basis of a restriction that was directed to be made under State law as in effect on July 1, 2008, and would have been in effect as of such date, but for a delay in the effective date of a waiver under section 1115 of such Act with respect to such restriction.

(2) COMPLIANCE WITH PROMPT PAY REQUIREMENTS.—

(A) APPLICATION TO PRACTITIONERS.—

(i) IN GENERAL.—Subject to the succeeding provisions of this subparagraph, no State shall be eligible for an increased FMAP rate as provided under this section for any claim received by a State from a practitioner subject to the terms of section 1902(a)(37)(A) of the Social Security Act (42 U.S.C. 1396a(a)(37)(A)) for such days during any period in which that State has failed to pay claims in accordance with such section as applied under title XIX of such Act.

(ii) REPORTING REQUIREMENT.—Each State shall report to the Secretary, on a quarterly basis, its compliance with the requirements of clause (i) as such requirements pertain to claims made for covered services during each month of the preceding quarter.

(iii) WAIVER AUTHORITY.—The Secretary may waive the application of clause (i) to a State, or the reporting requirement imposed under clause (ii), during any period in which there are exigent circumstances, including natural disasters, that prevent the timely processing of claims or the submission of such a report.

(iv) APPLICATION TO CLAIMS.—Clauses (i) and (ii) shall only apply to claims made for covered services after the date of enactment of this Act.

(B) APPLICATION TO NURSING FACILITIES AND HOSPITALS.—The provisions of subparagraph (A) shall apply with respect to a nursing facility or hospital, insofar as it is paid under title XIX of the Social Security Act on the basis of submission of claims, in the same or similar manner (but within the same timeframe) as such provisions apply to practitioners described in such subparagraph.

(3) STATE’S APPLICATION TOWARD RAINY DAY FUND.—A State is not eligible for an increase in its FMAP under paragraphs (2) or (3) of subsection (a) if any amounts attributable (directly or indirectly) to such increase are deposited or credited into any reserve or rainy day fund of the State.

(4) NO WAIVER AUTHORITY.—Except as provided in paragraph (2)(A)(iii), the Secretary may not waive the application of this subsection or subsection (d) under section 1115 of the Social Security Act or otherwise.

(5) **LIMITATION OF FMAP TO 100 PERCENT.**—In no case shall an increase in FMAP under this section result in an FMAP that exceeds 100 percent.

(d) **REQUIREMENTS.**—

(1) **STATE REPORTS.**—Each State that is paid additional Federal funds as a result of this section shall, not later than September 30, 2014, submit a report to the Secretary, in such form and such manner as the Secretary shall determine, regarding how the additional Federal funds were expended.

(2) **ADDITIONAL REQUIREMENT FOR CERTAIN STATES.**—In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State Medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State is not eligible for an increase in its FMAP under paragraphs (2) or (3) of subsection (a) if it requires that such political subdivisions pay for quarters during the ARRA transitional assistance period a greater percentage of the non-Federal share of such expenditures, or a greater percentage of the non-Federal share of payments under section 1923, than the respective percentage that would have been required by the State under such plan on September 30, 2008, prior to application of this section.

(e) **DEFINITIONS.**—In this Act, except as otherwise provided:

(1) **ARRA.**—The term “ARRA” means the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 140).

(2) **FMAP.**—The term “FMAP” means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), as determined without regard to this section except as otherwise specified.

(3) **POVERTY LINE.**—The term “poverty line” has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(5) **STATE.**—The term “State” has the meaning given such term in section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(f) **SUNSET.**—This section shall not apply to items and services furnished after the end of the ARRA transitional assistance period.

By Mr. AKAKA (for himself and Mr. VOINOVICH):

S. 2834. A bill to amend the Intelligence Reform and Terrorism Prevention Act of 2004 to establish a Security Clearance and Suitability Performance Accountability Council and for other purposes; to the Select Committee on Intelligence.

Mr. AKAKA. Mr. President, today I am introducing, along with my colleague Senator VOINOVICH, the Security Clearance Modernization and Reporting Act of 2009.

Since 2005, our Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia has held a series of six oversight hearings on the serious shortfalls of the Federal Government's ability to effectively and efficiently issue security clearances to federal employees and contractors.

This issue was placed on the Government Accountability Office's, GAO,

High-Risk List in 2005. Since then, through the strong oversight of our Subcommittee and hard work of those in the government dedicated to reforming and modernizing the security clearance process, the tremendous backlog of security clearance investigations has all but vanished, and clearance determinations are made much more quickly. While progress has been made, we must use this opportunity to continue to push for fundamental changes to the clearance process to ensure that we do not experience the same problems in the future.

In 2004, the Intelligence Reform and Terrorism Prevention Act, IRTPA, P.L. 108-458, required 90 percent of clearances to be completed within an average of 60 days by December 2009. At the time, it took almost a year to complete a Top Secret clearance request. IRTPA also required that agencies recognize clearance determinations made by other agencies to ensure reciprocity of clearances. An Executive Order was issued to implement these requirements, designating the Office of Management and Budget, OMB, as the agency responsible for setting security clearance policy and calling on the Office of Personnel Management, OPM, to conduct clearance investigations. Unfortunately, clearance timeliness continued to be unacceptably slow.

After continued pressure from our Subcommittee and other stakeholders, in 2008, OMB brought together the Department of Defense, the Office of the Director of National Intelligence, ODNI, and OPM to create a plan to overhaul and streamline the clearance process government-wide. At the recommendation of this reform team, a new executive order was issued creating a governance structure for overseeing and modernizing the federal government's security clearance and suitability processes. The members of the reform team were designated as the Suitability and Security Clearance Performance Accountability Council, PAC.

Since the creation of the PAC and the implementation of some reforms, including enhanced application processes, new clearance standards, and plans for electronic adjudication and reevaluation, timeliness of clearances has greatly improved. Already, agencies are generally meeting goals laid out by the IRTPA. However, this has required tremendous effort and a surge in investigation capacity over several years to address backlogs.

The bill that we are introducing today would address the lingering concerns over the clearance process and help sustain the momentum for reforming and modernizing the security clearance and suitability determination processes.

First, to ensure accountability in security clearance reform and modernization, it is necessary to produce more detailed timeliness reporting. Today, OMB only reports the average timeliness of the 90 fastest percent of

clearances. At our Subcommittee hearings, the GAO has repeatedly called for expanded reporting. It is important that we look at the timeliness of the whole process. Our legislation would require more complete reporting on timeliness for all clearances, not just the 90 percent that we see today. For the first time, it would require OMB to break down the numbers based on types of clearances and employee groups, and to report on which agencies are complying with reciprocal recognition of clearances. While the current IRTPA reporting requirements end in 2011, our legislation would extend these requirements to ensure that we receive reports until GAO has concluded this is no longer a high-risk issue.

To ensure consistent leadership, our bill would codify the Performance Accountability Council, which has been the catalyst for much of the reform we have seen to date. It is critical that we codify the PAC as its future was in doubt during the presidential transition as the new administration reviewed previous executive orders.

GAO has also urged the creation of new metrics that would measure not only the timeliness of clearance determinations, but also the quality and completeness of investigations. These metrics should be defined through the creation of a comprehensive strategic plan for clearance modernization. In response to GAO's recommendations, the legislation would require the PAC to create a comprehensive strategic plan. This plan would outline reform goals, establish performance measures, create a more robust communications strategy, define clear roles and responsibilities for stakeholders, and examine funding needs in order to keep reforms on track.

Finally, this bill would require that the PAC undertake a more comprehensive information technology assessment than it has to date. Today, dozens of intertwined systems are used in the clearance process. These systems are a patchwork of outdated technology owned by different agencies. Rather than conducting an inventory of the current technology in use, as the PAC has already done, our bill would require a true needs assessment to define the most effective information technology approach.

Our Subcommittee, under both my leadership and that of Senator Voinovich, has worked in a bipartisan manner on this issue seamlessly for several years and our oversight has yielded positive results. It is vital, from both a human capital perspective and a national security perspective, that security clearances and suitability determinations be of the highest quality and made in a timely manner. We must work to make sure this issue is removed from the High-Risk List as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2834

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# SECTION 1. SHORT TITLE.

This Act may be cited as the “Security Clearance Modernization and Reporting Act of 2009”.

# SEC. 2. DEFINITIONS.

Subsection (a) of section 3001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b) is amended—

(1) in the matter preceding paragraph (1) by striking “In this section:” and inserting “Except as otherwise specifically provided, in this title:”;

(2) by redesignating paragraph (1) as paragraph (2);

(3) by redesignating paragraph (2) as paragraph (5);

(4) by redesignating paragraph (3) as paragraph (4);

(5) by redesignating paragraph (4) as paragraph (12);

(6) by redesignating paragraph (5) as paragraph (10);

(7) by redesignating paragraph (6) as paragraph (15);

(8) by redesignating paragraph (7) as paragraph (14);

(9) by redesignating paragraph (8) as paragraph (3);

(10) by inserting before paragraph (2), as redesignated by paragraph (2), the following:

“(1) ADJUDICATION.—The term ‘adjudication’ means the evaluation of pertinent data in a background investigation and any other available information that is relevant and reliable to determine whether an individual is—

“(A) suitable for Federal Government employment;

“(B) eligible for logical and physical access to federally controlled information systems;

“(C) eligible for physical access to federally controlled facilities;

“(D) eligible for access to classified information;

“(E) eligible to hold a sensitive position; or

“(F) fit to perform work for or on behalf of the Federal Government as a contractor employee.”;

(11) by inserting after paragraph (5), as redesignated by paragraph (3), the following:

“(6) CLASSIFIED INFORMATION.—The term ‘classified information’ means information that has been determined, pursuant to Executive Order 12958 (60 Fed. Reg. 19825) or a successor or predecessor order, or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), to require protection against unauthorized disclosure.

“(7) CONTINUOUS EVALUATION.—The term ‘continuous evaluation’ means a review of the background of an individual who has been determined to be eligible for access to classified information (including additional or new checks of commercial databases, Government databases, and other information lawfully available to security officials) at any time during the period of eligibility to determine whether that individual continues to meet the requirements for eligibility for access to classified information.

“(8) CONTRACTOR.—The term ‘contractor’ means an expert or consultant, who is not subject to section 3109 of title 5, United States Code, to an agency, an industrial or commercial contractor, licensee, certificate holder, or grantee of any agency, including all subcontractors, a personal services contractor, or any other category of person who performs work for or on behalf of an agency and who is not an employee of an agency.

“(9) CONTRACTOR EMPLOYEE FITNESS.—The term ‘contractor employee fitness’ means fitness based on character and conduct for work for or on behalf of an agency as a contractor employee.”;

(12) by inserting after paragraph (10), as redesignated by paragraph (6), the following:

“(11) FEDERALLY CONTROLLED FACILITIES; FEDERALLY CONTROLLED INFORMATION SYSTEMS.—The term ‘federally controlled facilities’ and ‘federally controlled information systems’ have the meanings prescribed in guidance pursuant to the Federal Information Security Management Act of 2002 (title III of Public Law 107-347; 116 Stat. 2946), the amendments made by that Act, and Homeland Security Presidential Directive 12, or any successor Directive.”;

(13) by inserting after paragraph (12), as redesignated by paragraph (5), the following:

“(13) LOGICAL ACCESS.—The term ‘logical access’ means, with respect to federally controlled information systems, access other than occasional or intermittent access to federally controlled information systems.”;

(14) by inserting after paragraph (15), as redesignated by paragraph (7), the following:

“(16) PHYSICAL ACCESS.—The term ‘physical access’ means, with respect to federally controlled facilities, access other than occasional or intermittent access to federally controlled facilities.

“(17) SENSITIVE POSITION.—The term ‘sensitive position’ means any position designated as a sensitive position under Executive Order 10450 or any successor Executive Order.

“(18) SUITABILITY.—The term ‘suitability’ has the meaning of that term in part 731, of title 5, Code of Federal Regulations or any successor similar regulation.”.

# SEC. 3. SECURITY CLEARANCE AND SUITABILITY DETERMINATION REPORTING.

(a) EXTENSION OF REPORTING REQUIREMENTS.—Paragraph (1) of section 3001(h) of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b(h)) is amended by striking “through 2011,” and inserting “until the earlier of the date that is 2 years after the date that the Comptroller General of the United States has removed all items related to security clearances from the list maintained by the Comptroller General known as the High-Risk List or 2017.”.

(b) REPORTS ON SECURITY CLEARANCE REVIEW PROCESSES.—Paragraph (2) of such section 3001(h) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (E) and (F), respectively; and

(2) by striking subparagraph (A) and inserting the following:

“(A) a description of the full range of time required to complete initial clearance applications, including time required by each authorized investigative agency and each authorized adjudicative agency—

“(i) to respond to requests for security clearances for individuals, including the periods required to initiate security clearance investigations, conduct security clearance investigations, deliver completed investigations to the requesting agency, adjudicate such requests, make final determinations on such requests, and notify individuals and individuals’ employers of such determinations, from date of submission of the requests to the date of the ultimate disposition of the requests and notifications, disaggregated by the type of security clearance, including Secret, Top Secret, and Top Secret with Special Program Access, including sensitive compartmented information clearances—

“(I) for civilian employees of the United States;

“(II) for members of the Armed Forces of the United States; and

“(III) for contractor employees; and

“(ii) to conduct investigations for suitability determinations for individuals from successful submission of applications to ultimate disposition of applications and notifications to the individuals—

“(I) for civilian employees of the United States;

“(II) for members of the Armed Forces of the United States; and

“(III) for contractor employees; and

“(B) a listing of the agencies and departments of the United States that have established and utilize policies to accept all security clearance background investigations and determinations completed by an authorized investigative agency or authorized adjudicative agency;

“(C) a description of the progress in implementing the strategic plan referred to in section 3004;

“(D) a description of the progress made in implementing the information technology strategy referred to in section 3005.”.

# SEC. 4. SECURITY CLEARANCE AND SUITABILITY PERFORMANCE ACCOUNTABILITY COUNCIL.

Title III of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b et seq.) is amended by adding at the end the following new section:

# “SEC. 3003. SECURITY CLEARANCE AND SUITABILITY PERFORMANCE ACCOUNTABILITY COUNCIL.

“(a) ESTABLISHMENT.—There is established a Security Clearance and Suitability Performance Accountability Council (hereinafter referred to as the ‘Council’).

“(b) CHAIR.—

“(1) DESIGNATION.—The Deputy Director for Management, Office of Management and Budget, shall serve as Chair of the Council.

“(2) AUTHORITY.—The Chair of the Council shall have authority, direction, and control over the functions of the Council.

“(c) VICE CHAIR.—The Chair of the Council shall select a Vice Chair to act in the Chair’s absence.

“(d) MEMBERSHIP.—

“(1) IN GENERAL.—The members of the Council shall include—

“(A) the Chair of the Council; and

“(B) an appropriate senior officer from each of the following:

“(i) The Office of the Director of National Intelligence.

“(ii) The Department of Defense.

“(iii) The Office of Personnel Management.

“(2) OTHER MEMBERS.—The Chair of the Council may designate appropriate employees of other agencies or departments of the United States as members of the Council.

“(e) DUTIES.—The Council shall—

“(1) ensure alignment of suitability, security, and, as appropriate, contractor employee fitness, investigative, and adjudicative processes;

“(2) ensure alignment of investigative requirements for suitability determinations and security clearances to reduce duplication in investigations;

“(3) oversee the establishment of requirements for enterprise information technology;

“(4) oversee the development of techniques and tools, including information technology, for enhancing background investigations and eligibility determinations and ensure that such techniques and tools are utilized;

“(5) ensure that each agency and department of the United States establishes and utilizes policies for ensuring reciprocal recognition of clearances that allow access to classified information granted by all other agencies and departments;

“(6) ensure sharing of best practices among agencies and departments of the United States;



“(7) hold each agency and department of the United States accountable for the implementation of suitability, security, and, as appropriate, contractor employee fitness processes and procedures; and

“(8) hold each agency and department of the United States accountable for recognizing clearances that allow access to classified information granted by all other agencies and departments of the United States.

“(f) ASSIGNMENT OF DUTIES.—The Chair may assign, in whole or in part, to the head of any agency or department of the United States, solely or jointly, any duty of the Council relating to—

“(1) alignment and improvement of investigations and determinations of suitability;

“(2) determinations of contractor employee fitness; and

“(3) determinations of eligibility—

“(A) for logical access to federally controlled information systems;

“(B) for physical access to federally controlled facilities;

“(C) for access to classified information; or

“(D) to hold a sensitive position.”.

#### SEC. 5. STRATEGIC PLAN FOR REFORM.

Title III of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b et seq.), as amended by section 4, is further amended by adding at the end the following new section:

##### “SEC. 3004. SECURITY CLEARANCE AND SUITABILITY REFORM STRATEGIC PLAN.

“(a) REQUIREMENT FOR PLAN.—Not later than 90 days after the date of the enactment of the Security Clearance Modernization and Reporting Act of 2009, the Security Clearance and Suitability Performance Accountability Council established in section 3003 shall develop a strategic plan that identifies the causes of problems with the issuance of security clearances and a description of actions to be taken to correct such problems.

“(b) CONTENTS.—The plan required by subsection (a) shall include a description of—

“(1) the clear mission and strategic goals of the plan;

“(2) performance measures to be used to determine the effectiveness of security clearance procedures, including measures for the quality of security clearance investigations and adjudications;

“(3) a formal communications strategy related to the issuance of security clearances;

“(4) the roles and responsibilities for agencies participating in security clearance reform efforts; and

“(5) the long-term funding requirements for security clearance reform efforts.

“(c) SUBMISSION TO CONGRESS.—The plan required by subsection (a) shall be submitted to the appropriate committees of Congress.

“(d) GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.—The plan required by subsection (a) shall be reviewed by the Comptroller General of the United States following its submission to the appropriate committees of Congress under subsection (c).”.

#### SEC. 6. INFORMATION TECHNOLOGY STRATEGY.

Title III of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b et seq.), as amended by sections 4 and 5, is further amended by adding at the end the following new section:

##### “SEC. 3005. INFORMATION TECHNOLOGY STRATEGY.

“(a) REQUIREMENT FOR STRATEGY.—Not later than 120 days after the date of the enactment of the Security Clearance Modernization and Reporting Act of 2009, the Director of the Office of Management and Budget shall submit to the appropriate committees of Congress an information technology strategy that describes the plans to expedite investigative and adjudicative processes, verify standard information submitted

as part of an application for a security clearance, and provide security clearance and suitability determination reform consistent with the strategy required by section 3004(a), by carrying out the Enterprise Information Technology Strategy referred to in the Report of the Joint Security and Suitability Reform Team, dated December 30, 2008.

“(b) CONTENT.—The strategy required by subsection (a) shall include—

“(1) a description of information technology required to request a security clearance or suitability investigation;

“(2) a description of information technology required to apply for a security clearance or suitability investigation;

“(3) a description of information technology systems needed to support such investigations;

“(4) a description of information technology required to transmit common machine readable investigation files to agencies for adjudication;

“(5) a description of information technology required to support agency adjudications of security clearance and suitability determinations;

“(6) a description of information technology required to support continuous evaluations;

“(7) a description of information technology required to implement a single repository containing all security clearance and suitability determinations of each agency and department of the United States that is accessible by each such agency and department in support of ensuring reciprocal recognition of access to classified information among such agencies and departments;

“(8) a description of the efforts of the Security Clearance and Suitability Performance Council established in section 3003, and each of the Department of Defense, the Office of Personnel Management, and the Office of the Director of National Intelligence to carry out the strategy submitted under subsection (a);

“(9) the plans of the agencies and departments of the United States to develop, implement, fund, and provide personnel to carry out the strategy submitted under subsection (a);

“(10) cost estimates to carry out the strategy submitted under subsection (a); and

“(11) a description of the schedule for carrying out the strategy submitted under subsection (a).”.

#### SEC. 7. TECHNICAL AND CLERICAL AMENDMENTS.

(1) TECHNICAL CORRECTION.—The table of contents in section 1(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3638) is amended by adding after the item relating to section 3001 the following:

“Sec. 3002. Security clearances; limitations.”.

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by paragraph (1), is further amended by adding after the item relating to section 3002, as added by such paragraph, the following:

“Sec. 3003. Security Clearance and Suitability Performance Accountability Council.

“Sec. 3004. Security clearance and suitability reform strategic plan.

“Sec. 3005. Information technology strategy.”.

Mr. VOINOVICH. Mr. President, I rise today to join my good friend and Chairman on the Oversight of Government Management Subcommittee, Senator AKAKA, to ensure that security

clearance reform efforts begun in recent years continue by cosponsoring the Security Clearance Modernization and Reporting Act of 2009.

Since the 1990s, the Government's Accountability Office, GAO, has documented problems with the Department of Defense's, DoD, personnel security clearance program, and in 2005 added the program to its high-risk list. DoD's personnel security clearance program has remained on the 2007 and 2009 high risk lists.

In an effort to address this matter and improve the security clearance process, Congress set benchmarks for the time taken to issue clearances in the Intelligence Reform and Terrorism Prevention Act of 2004, IRTPA. IRTPA also required the President to select a single agency or office to oversee the security clearance process across the federal government and required uniform policies regarding the security clearance process, reciprocal recognition of security clearances among agencies, an evaluation of technology to expedite security clearance processes, and a plan to reduce the length of the security clearance process. While progress has been made to decrease the amount of time it takes to obtain a security clearance, more improvement is needed to fully reform the security clearance process, but reform efforts have been delayed this year by an interagency review of the security clearance reform initiatives undertaken over the past several years.

To ensure that the good work begun with passage of IRTPA in 2004, I am pleased to cosponsor Senator AKAKA's legislation that extends IRTPA's reporting requirements relating to security clearance reform efforts beyond their current 2011 expiration date and requires more details in those reports about the amount of time required by individual agencies to conduct both security clearance investigations and adjudications. To ensure that efforts begun over the past several years continue, the bill codifies portions of Executive Order 13467, which deals with reforming processes related to eligibility for access to classified information. The bill also calls for the development of the strategic plan GAO has been asking for since the DoD personnel security clearance program was put on its high risk list in 2005 and requires a more detailed information technology strategy relating to security clearance reform efforts.

I am proud to cosponsor this bill and thank the Senator from Hawaii for his work on this legislation to address such an important issue.

By Mr. KERRY (for himself, Mr. CARDIN, Mr. KAUFMAN, Mrs. GILLIBRAND, and Mr. MENENDEZ):

S. 2835. A bill to reduce global warming pollution through international climate finance, investment, and for other purposes; to the Committee on Foreign Relations.

Mr. KAUFMAN. Mr. President, I am pleased to join the Chairman of the Foreign Relations Committee and my colleagues to introduce an important piece of legislation, the International Climate Change Investment Act of 2009. Climate change is a global issue and only a concerted international response can succeed. This legislation provides key elements of an international deal that will both protect our planet and meet our Nation's international responsibilities. Even more importantly in these times, it will open the door to a green economy that can create jobs here for the markets abroad for clean energy goods and services.

Successful global climate negotiations will create the opportunity for us to transform our own economy, to free ourselves from dependence on fossil fuels from foreign sources, and to create the jobs and markets for a new, sustainable economy.

This legislation establishes a new framework for a global market in clean energy technologies. A complete agenda to confront climate change will include support for our educational base and for the research, development, and deployment of clean technologies. A climate deal that moves us away from fossil fuels will create global demand for those technologies. Building capacity and encouraging dramatic change in other countries will create a pool of customers for America's innovators.

That global market offers us the best chance to create a new economy based on a growing demand for clean energy goods and services—and that will support job creation and profits here at home. Companies in my home state of Delaware and across America are ready and eager to seize this opportunity for a world's worth of new markets. Our smartest investors agree.

This legislation shows the rest of the world that we are ready to do our part to make a smart, effective, and fair international climate change agreement work. It sets us on a firm forward footing to lead the way in tomorrow's green economy.

#### SUBMITTED RESOLUTIONS

**SENATE RESOLUTION 367—RECOGNIZING THE 25TH ANNIVERSARY OF THE ENACTMENT OF THE VICTIMS OF CRIME ACT OF 1984 (42 U.S.C. 10601 ET SEQ.) AND THE SUBSTANTIAL CONTRIBUTIONS TO THE CRIME VICTIMS FUND MADE THROUGH THE CRIMINAL PROSECUTIONS CONDUCTED BY THE FINANCIAL LITIGATION UNITS OF THE UNITED STATES ATTORNEYS' OFFICES**

Mr. CRAPO (for himself and Ms. KLOBUCHAR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 367

Whereas the Victims of Crime Act of 1984 has its 25th anniversary this year;

Whereas for 25 years, the Victims of Crime Act of 1984 has provided funds to States for victim assistance and compensation programs to support victims of crime and those affected by violent crimes;

Whereas the Victims of Crime Act of 1984 has enabled approximately 4,400 community-based public and private programs to offer services to victims of crime, including crisis intervention, counseling, guidance, legal advocacy, and transportation shelters;

Whereas the Victims of Crime Act of 1984 provides assistance and monetary support to over 4,000,000 victims of crime each year;

Whereas the Crime Victims Fund established under the Victims of Crime Act of 1984 provides direct services to victims of sexual assault, spousal abuse, child abuse, survivors of homicide victims, elderly victims of abuse or neglect, victims of drunk drivers, and other such crimes;

Whereas in 2008, the Victims of Crime Act of 1984 assisted State crime victim compensation programs by allocating \$432,000,000 to 151,643 victims of violent crime;

Whereas since the establishment of the Crime Victims Fund in 1984, nearly \$12,000,000,000 in offender-generated, non-taxpayer funds have been deposited into the Crime Victims Fund solely to help victims of crime;

Whereas the Victims of Crime Act of 1984 also supports services to victims of Federal crimes, by providing funds for victims and witness coordinators in United States Attorneys' offices, Federal Bureau of Investigation victim-assistance specialists, and the Federal Victim Notification System; and

Whereas the Victims of Crime Act of 1984 also supports important improvements in the victim services field through grants for training and technical assistance and evidence-based demonstration projects: Now, therefore, be it

*Resolved*, That the Senate recognizes—

(1) the 25th anniversary of the enactment of the Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.); and

(2) the substantial contributions to the Crime Victims Fund made through the criminal prosecutions conducted by the Financial Litigation Units of the United States Attorneys' offices.

**SENATE RESOLUTION 368—EXPRESSING THE SENSE OF THE SENATE COMMENDING COACH BOBBY BOWDEN**

Mr. NELSON of Florida (for himself and Mr. LEMIEUX) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 368

Whereas Bobby Bowden, over a 44-year career during which he coached at Howard College (now Samford University), West Virginia University, and Florida State University, where he has coached for the past 34 years, established a record as one of the most successful coaches in college football history;

Whereas the 388 coaching victories of Bobby Bowden are second only to the 393 coaching victories recorded by Joe Paterno at Pennsylvania State University;

Whereas Bobby Bowden coached Florida State University to 2 national championships in 1993 and 1999, and to a bowl game in every year since 1982, making it the longest streak in the Nation;

Whereas Bobby Bowden helped promote 164 student athletes onto careers in the National Football League;

Whereas Bobby Bowden profoundly influenced many professional and collegiate

coaches and players with his wisdom, loyalty, and warmth; and

Whereas the accomplishments of Bobby Bowden on and off the field have come to personify Florida State University: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that Bobby Bowden is to be commended for his monumental achievements.

**SENATE RESOLUTION 369—TO PERMIT THE COLLECTION OF CLOTHING, TOYS, FOOD, AND HOUSEWARES DURING THE HOLIDAY SEASON FOR CHARITABLE PURPOSES IN SENATE BUILDINGS**

Mr. MCCONNELL (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 369

*Resolved*,

**SECTION 1. COLLECTION OF CLOTHING, TOYS, FOOD, AND HOUSEWARES DURING THE HOLIDAY SEASON FOR CHARITABLE PURPOSES IN SENATE BUILDINGS.**

(a) IN GENERAL.—Notwithstanding any other provision of the rules or regulations of the Senate—

(1) a Senator, officer, or employee of the Senate may collect from another Senator, officer, or employee of the Senate within Senate buildings nonmonetary donations of clothing, toys, food, and housewares for charitable purposes related to serving those in need or members of the Armed Services and their families during the holiday season, if such purposes do not otherwise violate any rule or regulation of the Senate or of Federal law; and

(2) a Senator, officer, or employee of the Senate may work with a nonprofit organization with respect to the delivery of donations described in paragraph (1).

(b) EXPIRATION.—The authority provided by this resolution shall expire at the end of the 1st session of the 111th Congress.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2860. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table.

SA 2861. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2862. Mr. KOHL (for himself, Mr. GRASSLEY, Mr. FEINGOLD, Ms. KLOBUCHAR, Mr. FRANKEN, Mr. NELSON of Florida, and Mr. BROWN) submitted an amendment intended to be proposed by him to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2863. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2864. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself,

Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2865. Mr. BURRIS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2866. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2867. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2868. Mr. BURRIS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2869. Mr. NELSON of Florida (for himself, Mr. ROCKEFELLER, Mr. BEGICH, Mr. LEAHY, Mr. BROWN, Ms. STABENOW, and Mrs. SHAHEEN) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2870. Mr. WHITEHOUSE proposed an amendment to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra.

SA 2871. Mr. BROWN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2872. Mr. BROWN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2873. Mr. BROWN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2874. Mr. BROWN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2875. Mr. BROWN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2876. Mr. BROWN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2877. Mr. BROWN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2878. Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to

the bill H.R. 3590, supra; which was ordered to lie on the table.

SA 2879. Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 2860.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 797, strike line 11 and all that follows through page 801, line 4, and insert the following:

#### **SEC. 3102A. ELIMINATION OF GEOGRAPHIC PHYSICIAN WORK ADJUSTMENT FACTOR FROM GEOGRAPHIC INDICES USED TO ADJUST PAYMENTS UNDER THE PHYSICIAN FEE SCHEDULE.**

(a) FINDINGS.—Congress finds the following:

(1) Variations in the geographic physician work adjustment factors under section 1848(e) of the Social Security Act (42 U.S.C. 1395w-4(e)) result in inequity between localities in payments under the Medicare physician fee schedule.

(2) Beneficiaries under the Medicare program that reside in areas where such adjustment factors are high have relatively more access to services that are paid based on such fee schedule.

(3) There are a number of studies indicating that the market for health care professionals has become nationalized and historically low labor costs in rural and small urban areas have disappeared.

(4) Elimination of the adjustment factors described in paragraph (1) would equalize the reimbursement rate for services reimbursed under the Medicare physician fee schedule while remaining budget-neutral.

(b) ELIMINATION.—Section 1848(e) of the Social Security Act (42 U.S.C. 1395w-4(e)) is amended—

(1) in paragraph (1)(A)(iii), by striking “an index” and inserting “for services provided before January 1, 2010, an index”; and

(2) in paragraph (2), by inserting “, for services provided before January 1, 2010,” after “paragraph (4),” and

(c) BUDGET NEUTRALITY ADJUSTMENT FOR ELIMINATION OF GEOGRAPHIC PHYSICIAN WORK ADJUSTMENT FACTOR.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w-4(d)) is amended—

(1) in paragraph (1)(A), by striking “The conversion” and inserting “Subject to paragraph (10), the conversion”; and

(2) by adding at the end the following new paragraph:

“(10) BUDGET NEUTRALITY ADJUSTMENT FOR ELIMINATION OF GEOGRAPHIC PHYSICIAN WORK ADJUSTMENT FACTOR.—Before applying an update for a year under this subsection, the Secretary shall (if necessary) provide for an adjustment to the conversion factor for that year to ensure that the aggregate payments under this part in that year shall be equal to aggregate payments that would have been made under such part in that year if the amendments made by section 3102A(b) of the Patient Protection and Affordable Care Act had not been enacted.”.

#### **SEC. 3102B. CLINICAL ROTATION DEMONSTRATION PROJECT.**

(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish a demonstration project that provides for demonstration grants designed to provide financial or other incentives to hospitals to attract educators and clinical practitioners so that hospitals that serve beneficiaries under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) who are residents of underserved areas may host clinical rotations.

(b) DURATION OF PROJECT.—The demonstration project shall be conducted over a 5-year period.

(c) WAIVER.—The Secretary shall waive such provisions of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq. and 1395 et seq.) as may be necessary to conduct the demonstration project under this section.

(d) REPORTS.—The Secretary shall submit to the appropriate committees of Congress interim reports on the demonstration project and a final report on such project within 6 months after the conclusion of the project, together with recommendations for such legislation or administrative action as the Secretary determines to be appropriate.

(e) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this section, \$20,000,000.

(f) DEFINITIONS.—In this section:

(1) HOSPITAL.—The term “hospital” means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B))) that had indirect or direct costs of medical education during the most recent cost reporting period preceding the date of enactment of this Act.

(2) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(3) UNDERSERVED AREA.—The term “underserved area” means such medically underserved urban areas and medically underserved rural areas as the Secretary may specify.

#### **SEC. 3102C. MEDICARE RURAL HEALTH CARE QUALITY IMPROVEMENT DEMONSTRATION PROJECTS.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish not more than 10 demonstration projects to provide for improvements, as recommended by the Institute of Medicine, in the quality of health care provided to individuals residing in rural areas.

(2) ACTIVITIES.—Activities under the projects may include public health surveillance, emergency room videoconferencing, virtual libraries, telemedicine, electronic health records, data exchange networks, and any other activities determined appropriate by the Secretary.

(3) CONSULTATION.—The Secretary shall consult with the Office of Rural Health Policy of the Health Resources and Services Administration, the Agency for Healthcare Research and Quality, and the Centers for Medicare & Medicaid Services in carrying out the provisions of this section.

(b) DURATION.—Each demonstration project under this section shall be conducted over a 4-year period.

(c) DEMONSTRATION PROJECT SITES.—The Secretary shall ensure that the demonstration projects under this section are conducted at a variety of sites representing the diversity of rural communities in the United States.

(d) WAIVER.—The Secretary shall waive such provisions of titles XI and XVIII of the

Social Security Act (42 U.S.C. 1301 et seq. and 1395 et seq.) as may be necessary to conduct the demonstration projects under this section.

(e) **INDEPENDENT EVALUATION.**—The Secretary shall enter into an arrangement with an entity that has experience working directly with rural health systems for the conduct of an independent evaluation of the demonstration projects conducted under this section.

(f) **REPORTS.**—The Secretary shall submit to the appropriate committees of Congress interim reports on each demonstration project and a final report on such project within 6 months after the conclusion of the project. Such reports shall include recommendations regarding the expansion of the project to other areas and recommendations for such other legislative or administrative action as the Secretary determines appropriate.

(g) **FUNDING.**—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this section, \$50,000,000.

**SEC. 3102D. ENSURING PROPORTIONAL REPRESENTATION OF INTERESTS OF RURAL AREAS ON THE MEDICARE PAYMENT ADVISORY COMMISSION.**

(a) **IN GENERAL.**—Section 1805(c)(2) of the Social Security Act (42 U.S.C. 1395b-6(c)(2)) is amended—

(1) in subparagraph (A), by inserting “consistent with subparagraph (E)” after “rural representatives”; and

(2) by adding at the end the following new subparagraph:

“(E) **PROPORTIONAL REPRESENTATION OF INTERESTS OF RURAL AREAS.**—In order to provide a balance between urban and rural representatives under subparagraph (A), the proportion of members who represent the interests of health care providers and Medicare beneficiaries located in rural areas shall be no less than the proportion, of the total number of Medicare beneficiaries, who reside in rural areas.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to appointments made to the Medicare Payment Advisory Commission after the date of the enactment of this Act.

**SEC. 3102E. IMPLEMENTATION OF GAO RECOMMENDATIONS REGARDING GEOGRAPHIC ADJUSTMENT INDICES UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.**

Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall implement the recommendations contained in the March 2005 GAO report 05-119 entitled “Medicare Physician Fees: Geographic Adjustment Indices are Valid in Design, but Data and Methods Need Refinement.”.

**SA 2861.** Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in subtitle C of title IV, insert the following:

**SEC. 4. AUTOMATED DEFIBRILLATION IN ADAM'S MEMORY ACT.**

Section 312 of the Public Health Service Act (42 U.S.C. 244) is amended—

(1) in subsection (c)(6), after “clearing-house” insert “, that shall be administered

by an organization that has substantial expertise in pediatric education, pediatric medicine, and electrophysiology and sudden death;”; and

(2) in the first sentence of subsection (e), by striking “fiscal year 2003” and all that follows through “2006” and inserting “for each of fiscal years 2003 through 2014”.

**SA 2862.** Mr. KOHL (for himself, Mr. GRASSLEY, Mr. FEINGOLD, Ms. KLOBUCHAR, Mr. FRANKEN, Mr. NELSON of Florida, and Mr. BROWN) submitted an amendment intended to be proposed by him to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —PRESERVE ACCESS TO AFFORDABLE GENERICS ACT**

**SEC. 01. SHORT TITLE.**

This title may be cited as the “Preserve Access to Affordable Generics Act”.

**SEC. 02. UNLAWFUL COMPENSATION FOR DELAY.**

(a) **IN GENERAL.**—The Federal Trade Commission Act (15 U.S.C. 44 et seq.) is amended by—

(1) redesignating section 28 as section 29; and

(2) inserting before section 29, as redesignated, the following:

**“SEC. 28. PRESERVING ACCESS TO AFFORDABLE GENERICS.**

“(a) **IN GENERAL.**—

“(1) **ENFORCEMENT PROCEEDING.**—The Federal Trade Commission may initiate a proceeding to enforce the provisions of this section against the parties to any agreement resolving or settling, on a final or interim basis, a patent infringement claim, in connection with the sale of a drug product.

“(2) **PRESUMPTION.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), in such a proceeding, an agreement shall be presumed to have anticompetitive effects and be unlawful if—

“(i) an ANDA filer receives anything of value; and

“(ii) the ANDA filer agrees to limit or forego research, development, manufacturing, marketing, or sales of the ANDA product for any period of time.

“(B) **EXCEPTION.**—The presumption in subparagraph (A) shall not apply if the parties to such agreement demonstrate by clear and convincing evidence that the procompetitive benefits of the agreement outweigh the anticompetitive effects of the agreement.

“(b) **COMPETITIVE FACTORS.**—In determining whether the settling parties have met their burden under subsection (a)(2)(B), the fact finder shall consider—

“(1) the length of time remaining until the end of the life of the relevant patent, compared with the agreed upon entry date for the ANDA product;

“(2) the value to consumers of the competition from the ANDA product allowed under the agreement;

“(3) the form and amount of consideration received by the ANDA filer in the agreement resolving or settling the patent infringement claim;

“(4) the revenue the ANDA filer would have received by winning the patent litigation;

“(5) the reduction in the NDA holder's revenues if it had lost the patent litigation;

“(6) the time period between the date of the agreement conveying value to the ANDA filer and the date of the settlement of the patent infringement claim; and

“(7) any other factor that the fact finder, in its discretion, deems relevant to its determination of competitive effects under this subsection.

“(c) **LIMITATIONS.**—In determining whether the settling parties have met their burden under subsection (a)(2)(B), the fact finder shall not presume—

“(1) that entry would not have occurred until the expiration of the relevant patent or statutory exclusivity; or

“(2) that the agreement's provision for entry of the ANDA product prior to the expiration of the relevant patent or statutory exclusivity means that the agreement is procompetitive, although such evidence may be relevant to the fact finder's determination under this section.

“(d) **EXCLUSIONS.**—Nothing in this section shall prohibit a resolution or settlement of a patent infringement claim in which the consideration granted by the NDA holder to the ANDA filer as part of the resolution or settlement includes only one or more of the following:

“(1) The right to market the ANDA product in the United States prior to the expiration of—

“(A) any patent that is the basis for the patent infringement claim; or

“(B) any patent right or other statutory exclusivity that would prevent the marketing of such drug.

“(2) A payment for reasonable litigation expenses not to exceed \$7,500,000.

“(3) A covenant not to sue on any claim that the ANDA product infringes a United States patent.

“(e) **REGULATIONS AND ENFORCEMENT.**—

“(1) **REGULATIONS.**—The Federal Trade Commission may issue, in accordance with section 553 of title 5, United States Code, regulations implementing and interpreting this section. These regulations may exempt certain types of agreements described in subsection (a) if the Commission determines such agreements will further market competition and benefit consumers. Judicial review of any such regulation shall be in the United States District Court for the District of Columbia pursuant to section 706 of title 5, United States Code.

“(2) **ENFORCEMENT.**—A violation of this section shall be treated as a violation of section 5.

“(3) **JUDICIAL REVIEW.**—Any person, partnership or corporation that is subject to a final order of the Commission, issued in an administrative adjudicative proceeding under the authority of subsection (a)(1), may, within 30 days of the issuance of such order, petition for review of such order in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the ultimate parent entity, as defined at 16 C.F.R. 801.1(a)(3), of the NDA holder is incorporated as of the date that the NDA is filed with the Secretary of the Food and Drug Administration, or the United States Court of Appeals for the circuit in which the ultimate parent entity of the ANDA filer is incorporated as of the date that the ANDA is filed with the Secretary of the Food and Drug Administration. In such a review proceeding, the findings of the Commission as to the facts, if supported by evidence, shall be conclusive.

“(f) **ANTITRUST LAWS.**—Nothing in this section shall be construed to modify, impair or supersede the applicability of the antitrust laws as defined in subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)) and of section 5 of this Act to the extent that

section 5 applies to unfair methods of competition. Nothing in this section shall modify, impair, limit or supersede the right of an ANDA filer to assert claims or counterclaims against any person, under the antitrust laws or other laws relating to unfair competition.

“(g) PENALTIES.—

“(1) FORFEITURE.—Each person, partnership or corporation that violates or assists in the violation of this section shall forfeit and pay to the United States a civil penalty sufficient to deter violations of this section, but in no event greater than 3 times the value received by the party that is reasonably attributable to a violation of this section. If no such value has been received by the NDA holder, the penalty to the NDA holder shall be sufficient to deter violations, but in no event greater than 3 times the value given to the ANDA filer reasonably attributable to the violation of this section. Such penalty shall accrue to the United States and may be recovered in a civil action brought by the Federal Trade Commission, in its own name by any of its attorneys designated by it for such purpose, in a district court of the United States against any person, partnership or corporation that violates this section. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.

“(2) CEASE AND DESIST.—

“(A) IN GENERAL.—If the Commission has issued a cease and desist order with respect to a person, partnership or corporation in an administrative adjudicative proceeding under the authority of subsection (a)(1), an action brought pursuant to paragraph (1) may be commenced against such person, partnership or corporation at any time before the expiration of one year after such order becomes final pursuant to section 5(g).

“(B) EXCEPTION.—In an action under subparagraph (A), the findings of the Commission as to the material facts in the administrative adjudicative proceeding with respect to such person's, partnership's or corporation's violation of this section shall be conclusive unless—

“(i) the terms of such cease and desist order expressly provide that the Commission's findings shall not be conclusive; or

“(ii) the order became final by reason of section 5(g)(1), in which case such finding shall be conclusive if supported by evidence.

“(3) CIVIL PENALTY.—In determining the amount of the civil penalty described in this section, the court shall take into account—

“(A) the nature, circumstances, extent, and gravity of the violation;

“(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, any effect on the ability to continue doing business, profits earned by the NDA holder, compensation received by the ANDA filer, and the amount of commerce affected; and

“(C) other matters that justice requires.

“(4) REMEDIES IN ADDITION.—Remedies provided in this subsection are in addition to, and not in lieu of, any other remedy provided by Federal law. Nothing in this paragraph shall be construed to affect any authority of the Commission under any other provision of law.

“(h) DEFINITIONS.—In this section:

“(1) AGREEMENT.—The term ‘agreement’ means anything that would constitute an agreement under section 1 of the Sherman Act (15 U.S.C. 1) or section 5 of this Act.

“(2) AGREEMENT RESOLVING OR SETTLING A PATENT INFRINGEMENT CLAIM.—The term ‘agreement resolving or settling a patent infringement claim’ includes any agreement that is entered into within 30 days of the resolution or the settlement of the claim, or

any other agreement that is contingent upon, provides a contingent condition for, or is otherwise related to the resolution or settlement of the claim.

“(3) ANDA.—The term ‘ANDA’ means an abbreviated new drug application, as defined under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

“(4) ANDA FILER.—The term ‘ANDA filer’ means a party who has filed an ANDA with the Food and Drug Administration.

“(5) ANDA PRODUCT.—The term ‘ANDA product’ means the product to be manufactured under the ANDA that is the subject of the patent infringement claim.

“(6) DRUG PRODUCT.—The term ‘drug product’ means a finished dosage form (e.g., tablet, capsule, or solution) that contains a drug substance, generally, but not necessarily, in association with 1 or more other ingredients, as defined in section 314.3(b) of title 21, Code of Federal Regulations.

“(7) NDA.—The term ‘NDA’ means a new drug application, as defined under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

“(8) NDA HOLDER.—The term ‘NDA holder’ means—

“(A) the party that received FDA approval to market a drug product pursuant to an NDA;

“(B) a party owning or controlling enforcement of the patent listed in the Approved Drug Products With Therapeutic Equivalence Evaluations (commonly known as the ‘FDA Orange Book’) in connection with the NDA; or

“(C) the predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with any of the entities described in subparagraphs (A) and (B) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

“(9) PATENT INFRINGEMENT.—The term ‘patent infringement’ means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

“(10) PATENT INFRINGEMENT CLAIM.—The term ‘patent infringement claim’ means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product.

“(11) STATUTORY EXCLUSIVITY.—The term ‘statutory exclusivity’ means those prohibitions on the approval of drug applications under clauses (ii) through (iv) of section 505(c)(3)(E) (5- and 3-year data exclusivity), section 527 (orphan drug exclusivity), or section 505A (pediatric exclusivity) of the Federal Food, Drug, and Cosmetic Act.”

(b) EFFECTIVE DATE.—Section 28 of the Federal Trade Commission Act, as added by this section, shall apply to all agreements described in section 28(a)(1) of that Act entered into after November 15, 2009. Section 28(g) of the Federal Trade Commission Act, as added by this section, shall not apply to agreements entered into before the date of enactment of this title.

**SEC. 03. NOTICE AND CERTIFICATION OF AGREEMENTS.**

(a) NOTICE OF ALL AGREEMENTS.—Section 1112(c)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 355 note) is amended by—

(1) striking “the Commission the” and inserting the following: “the Commission—  
“(1) the”;

(2) striking the period and inserting “; and”;

(3) inserting at the end the following:

“(2) any other agreement the parties enter into within 30 days of entering into an agreement covered by subsection (a) or (b).”

(b) CERTIFICATION OF AGREEMENTS.—Section 1112 of such Act is amended by adding at the end the following:

“(d) CERTIFICATION.—The Chief Executive Officer or the company official responsible for negotiating any agreement required to be filed under subsection (a), (b), or (c) shall execute and file with the Assistant Attorney General and the Commission a certification as follows: ‘I declare that the following is true, correct, and complete to the best of my knowledge: The materials filed with the Federal Trade Commission and the Department of Justice under section 1112 of subtitle B of title XI of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing.’”

**SEC. 04. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.**

Section 505(j)(5)(D)(i)(V) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(j)(5)(D)(i)(V)) is amended by inserting “section 28 of the Federal Trade Commission Act or” after “that the agreement has violated”.

**SEC. 05. COMMISSION LITIGATION AUTHORITY.**

Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) in subparagraph (D), by striking “or” after the semicolon;

(2) in subparagraph (E), by inserting “or” after the semicolon; and

(3) inserting after subparagraph (E) the following:

“(F) under section 28;”

**SEC. 06. STATUTE OF LIMITATIONS.**

The Commission shall commence any enforcement proceeding described in section 28 of the Federal Trade Commission Act, as added by section 02, except for an action described in section 28(g)(2) of the Federal Trade Commission Act, not later than 3 years after the date on which the parties to the agreement file the Notice of Agreement as provided by sections 1112(c)(2) and (d) of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (21 U.S.C. 355 note).

**SEC. 07. SEVERABILITY.**

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such title or amendments to any person or circumstance shall not be affected thereby.

**SA 2863.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other

purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE X—IMPORTATION OF  
PRESCRIPTION DRUGS**

**SEC. 10001. SHORT TITLE.**

This title may be cited as the “Pharmaceutical Market Access Act of 2009”

**SEC. 10002. PURPOSES.**

The purposes of this title are to—

(1) give all Americans immediate relief from the outrageously high cost of pharmaceuticals;

(2) reverse the perverse economics of the American pharmaceutical market;

(3) allow the importation of prescription drugs only if the drugs and facilities where such drugs are manufactured are approved by the Food and Drug Administration, and to exclude pharmaceutical narcotics; and

(4) ensure continued integrity to the prescription drug supply of the United States by—

(A) requiring that imported prescription drugs be packaged and shipped using counterfeit-resistant technologies;

(B) requiring Internet pharmacies to register with the United States Government for Americans to verify authenticity before purchases over the Internet;

(C) requiring all foreign sellers to register with United States Government and submit to facility inspections by the Government without prior notice; and

(D) limiting the eligible countries from which prescription drugs may be imported to Canada, member countries of the European Union, and other highly industrialized nations with safe pharmaceutical infrastructures.

**SEC. 10003. AMENDMENTS TO SECTION 804 OF  
THE FEDERAL FOOD, DRUG, AND  
COSMETIC ACT.**

(a) **DEFINITIONS.**—Section 804(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(a)) is amended to read as follows:

“(a) **DEFINITIONS.**—In this section:

“(1) **IMPORTER.**—The term ‘importer’ means a pharmacy, group of pharmacies, pharmacist, or wholesaler.

“(2) **PERMITTED COUNTRY.**—The term ‘permitted country’ means Australia, Canada, Israel, Japan, New Zealand, Switzerland, South Africa, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, the United Kingdom, Iceland, Liechtenstein, and Norway, except that the Secretary—

“(A) may add a country, union, or economic area as a permitted country for purposes of this section if the Secretary determines that the country, union, or economic area has a pharmaceutical infrastructure that is substantially equivalent or superior to the pharmaceutical infrastructure of the United States, taking into consideration pharmacist qualifications, pharmacy storage procedures, the drug distribution system, the drug dispensing system, and market regulation; and

“(B) may remove a country, union, or economic area as a permitted country for purposes of this section if the Secretary determines that the country, union, or economic area does not have such a pharmaceutical infrastructure.

“(3) **PHARMACIST.**—The term ‘pharmacist’ means a person licensed by the relevant governmental authority to practice pharmacy, including the dispensing and selling of prescription drugs.

“(4) **PHARMACY.**—The term ‘pharmacy’ means a person that is licensed by the relevant governmental authority to engage in the business of selling prescription drugs that employs 1 or more pharmacists.

“(5) **PRESCRIPTION DRUG.**—The term ‘prescription drug’ means a drug subject to section 503(b), other than—

“(A) a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

“(B) a biological product (as defined in section 351 of the Public Health Service Act (42 U.S.C. 262));

“(C) an infused drug (including a peritoneal dialysis solution);

“(D) an intravenously injected drug;

“(E) a drug that is inhaled during surgery; or

“(F) a drug which is a parenteral drug, the importation of which pursuant to subsection (b) is determined by the Secretary to pose a threat to the public health, in which case section 801(d)(1) shall continue to apply.

“(6) **QUALIFYING DRUG.**—The term ‘qualifying drug’ means a prescription drug that—

“(A) is approved pursuant to an application submitted under section 505(b)(1); and

“(B) is not—

“(i) a drug manufactured through 1 or more biotechnology processes;

“(ii) a drug that is required to be refrigerated; or

“(iii) a photoreactive drug.

“(7) **QUALIFYING INTERNET PHARMACY.**—The term ‘qualifying Internet pharmacy’ means a registered exporter that dispenses qualifying drugs to individuals over an Internet Web site.

“(8) **QUALIFYING LABORATORY.**—The term ‘qualifying laboratory’ means a laboratory in the United States that has been approved by the Secretary for the purposes of this section.

“(9) **REGISTERED EXPORTER.**—The term ‘registered exporter’ means a person that is in the business of exporting a drug to persons in the United States (or that seeks to be in such business), for which a registration under this section has been approved and is in effect.

“(10) **WHOLESALE.**—

“(A) **IN GENERAL.**—The term ‘wholesaler’ means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A).

“(B) **EXCLUSION.**—The term ‘wholesaler’ does not include a person authorized to import drugs under section 801(d)(1).”

(b) **REGULATIONS.**—Section 804(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(b)) is amended to read as follows:

“(b) **REGULATIONS.**—Not later than 180 days after the date of enactment of the Pharmaceutical Market Access Act of 2009, the Secretary, after consultation with the United States Trade Representative and the Commissioner of the U.S. Customs and Border Protection, shall promulgate regulations permitting pharmacists, pharmacies, and wholesalers to import qualifying drugs from permitted countries into the United States.”

(c) **LIMITATION.**—Section 804(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(c)) is amended by striking “prescription drug” each place it appears and inserting “qualifying drug”.

(d) **INFORMATION AND RECORDS.**—Section 804(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(d)(1)) is amended—

(1) by striking subparagraph (G) and redesignating subparagraphs (H) through (N) as subparagraphs (G) through (M), respectively;

(2) in subparagraph (H) (as so redesignated), by striking “telephone number, and professional license number (if any)” and inserting “and telephone number”; and

(3) in subparagraph (L) (as so redesignated), by striking “(J) and (L)” and inserting “(I) and (K)”.

(e) **TESTING.**—Section 804(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(e)) is amended to read as follows:

“(e) **TESTING.**—The regulations under subsection (b) shall require that the testing described under subparagraphs (I) and (K) of subsection (d)(1) be conducted by the importer of the qualifying drug, unless the qualifying drug is subject to the requirements under section 505E for counterfeit-resistant technologies.”

(f) **REGISTRATION OF EXPORTERS; INSPECTIONS.**—Section 804(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(f)) is amended to read as follows:

“(f) **REGISTRATION OF EXPORTERS; INSPECTIONS.**—

“(1) **IN GENERAL.**—Any person that seeks to be a registered exporter (referred to in this subsection as the ‘registrant’) shall submit to the Secretary a registration that includes the following:

“(A) The name of the registrant and identification of all places of business of the registrant that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the registrant.

“(B) An agreement by the registrant to—

(i) make its places of business that relate to qualifying drugs (including warehouses and other facilities owned or controlled by, or operated for, the exporter) and records available to the Secretary for on-site inspections, without prior notice, for the purpose of determining whether the registrant is in compliance with this Act’s requirements;

(ii) export only qualifying drugs;

(iii) export only to persons authorized to import the drugs;

(iv) notify the Secretary of a recall or withdrawal of a qualifying drug distributed in a permitted country to or from which the registrant has exported or imported, or intends to export or import, to the United States;

(v) monitor compliance with registration conditions and report any noncompliance promptly;

(vi) submit a compliance plan showing how the registrant will correct violations, if any; and

(vii) promptly notify the Secretary of changes in the registration information of the registrant.

“(2) **NOTICE OF APPROVAL OR DISAPPROVAL.**—

“(A) **IN GENERAL.**—Not later than 90 days after receiving a completed registration from a registrant, the Secretary shall—

(i) notify such registrant of receipt of the registration;

(ii) assign such registrant a registration number; and

(iii) approve or disapprove the application.

“(B) **DISAPPROVAL OF APPLICATION.**—

(i) **IN GENERAL.**—The Secretary shall disapprove a registration, and notify the registrant of such disapproval, if the Secretary has reason to believe that such registrant is not in compliance with a registration condition.

(ii) **SUBSEQUENT APPROVAL.**—The Secretary may subsequently approve a registration that was denied under clause (i) if the Secretary finds that the registrant is in compliance with all registration conditions.

“(3) **LIST.**—The Secretary shall—

(A) maintain an up-to-date list of registered exporters (including qualifying Internet pharmacies that sell qualifying drugs to individuals);

(B) make such list available to the public on the Internet Web site of the Food and Drug Administration and via a toll-free telephone number; and

(C) update such list promptly after the approval of a registration under this subsection.



“(4) EDUCATION OF CONSUMERS.—The Secretary shall carry out activities, by use of the Internet Web site and toll-free telephone number under paragraph (3), that educate consumers with regard to the availability of qualifying drugs for import for personal use under this section, including information on how to verify whether an exporter is registered.

“(5) INSPECTION OF IMPORTERS AND REGISTERED EXPORTERS.—The Secretary shall inspect the warehouses, other facilities, and records of importers and registered exporters as often as the Secretary determines necessary to ensure that such importers and registered exporters are in compliance with this section.”.

(g) SUSPENSION OF IMPORTATION.—Section 804(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(g)) is amended by—

(1) striking “and the Secretary determines that the public is adequately protected from counterfeit and violative prescription drugs being imported under subsection (b)”;

(2) by adding after the period at the end the following: “The Secretary shall reinstate the importation by a specific importer upon a determination by the Secretary that the violation has been corrected and that the importer has demonstrated that further violations will not occur. This subsection shall not apply to a prescription drug imported by an individual, or to a prescription drug shipped to an individual by a qualifying Internet pharmacy.”.

(h) WAIVER AUTHORITY FOR INDIVIDUALS.—Section 804(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(j)) is amended to read as follows:

“(j) IMPORTATION BY INDIVIDUALS.—

“(1) IN GENERAL.—Not later than 180 days after the enactment of the Pharmaceutical Market Access Act of 2009, the Secretary shall by regulation permit an individual to import a drug from a permitted country to the United States if the drug is—

“(A) a qualifying drug;

“(B) imported from a licensed pharmacy or qualifying Internet pharmacy;

“(C) for personal use by an individual, or family member of the individual, not for resale;

“(D) in a quantity that does not exceed a 90-day supply during any 90-day period; and

“(E) accompanied by a copy of a prescription for the drug, which—

“(i) is valid under applicable Federal and State laws; and

“(ii) was issued by a practitioner who is authorized to administer prescription drugs.

“(2) DRUGS DISPENSED OUTSIDE THE UNITED STATES.—An individual may import a drug from a country that is not a permitted country if—

“(A) the drug was dispensed to the individual while the individual was in such country, and the drug was dispensed in accordance with the laws and regulations of such country;

“(B) the individual is entering the United States and the drug accompanies the individual at the time of entry;

“(C) the drug is approved for commercial distribution in the country in which the drug was obtained;

“(D) the drug does not appear to be adulterated; and

“(E) the quantity of the drug does not exceed a 14-day supply.”.

(i) REPEAL OF CERTAIN PROVISIONS.—Section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384) is amended by striking subsections (l) and (m).

#### SEC. 10004. REGISTRATION FEES.

Subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379f et seq.) is amended by adding at the end the following:

### “PART 6—FEES RELATING TO PRESCRIPTION DRUG IMPORTATION

#### “SEC. 743. FEES RELATING TO PRESCRIPTION DRUG IMPORTATION.

“(a) REGISTRATION FEE.—The Secretary shall establish a registration fee program under which a registered exporter under section 804 shall be required to pay an annual fee to the Secretary in accordance with this subsection.

“(b) COLLECTION.—

“(1) COLLECTION ON INITIAL REGISTRATION.—A fee under this section shall be payable for the fiscal year in which the registered exporter first submits a registration under section 804 (or reregisters under that section if that person has withdrawn its registration and subsequently reregisters) in a amount of \$10,000, due on the date the exporter first submits a registration to the Secretary under section 804.

“(2) COLLECTION IN SUBSEQUENT YEARS.—After the fee is paid for the first fiscal year, the fee described under this subsection shall be payable on or before October 1 of each year.

“(3) ONE FEE PER FACILITY.—The fee shall be paid only once for each registered exporter for a fiscal year in which the fee is payable.

“(c) FEE AMOUNT.—

“(1) IN GENERAL.—Subject to subsection (b)(1), the amount of the fee shall be determined each year by the Secretary and shall be based on the anticipated costs to the Secretary of enforcing the amendments made by the Pharmaceutical Market Access Act of 2009 in the subsequent fiscal year.

“(2) LIMITATION.—

“(A) IN GENERAL.—The aggregate total of fees collected under this section shall not exceed 1 percent of the total price of drugs exported annually to the United States by registered exporters under this section.

“(B) REASONABLE ESTIMATE.—Subject to the limitation described in subparagraph (A), a fee under this subsection for an exporter shall be an amount that is a reasonable estimate by the Secretary of the annual share of the exporter of the volume of drugs exported by exporters under this section.

“(d) USE OF FEES.—The fees collected under this section shall be used for the sole purpose of administering this section with respect to registered exporters, including the costs associated with—

“(1) inspecting the facilities of registered exporters, and of other entities in the chain of custody of a qualifying drug;

“(2) developing, implementing, and maintaining a system to determine registered exporters' compliance with the registration conditions under the Pharmaceutical Market Access Act of 2009, including when shipments of qualifying drugs are offered for import into the United States; and

“(3) inspecting such shipments, as necessary, when offered for import into the United States to determine if any such shipment should be refused admission.

“(e) ANNUAL FEE SETTING.—The Secretary shall establish, 60 days before the beginning of each fiscal year beginning after September 30, 2009, for that fiscal year, registration fees.

“(f) EFFECT OF FAILURE TO PAY FEES.—

“(1) DUE DATE.—A fee payable under this section shall be paid by the date that is 30 days after the date on which the fee is due.

“(2) FAILURE TO PAY.—If a registered exporter subject to a fee under this section fails to pay the fee, the Secretary shall not permit the registered exporter to engage in exportation to the United States or offering for exportation prescription drugs under this Act until all such fees owed by that person are paid.

“(g) REPORTS.—

“(1) FEE ESTABLISHMENT.—Not later than 60 days before the beginning of each fiscal year, the Secretary shall—

“(A) publish registration fees under this section for that fiscal year;

“(B) hold a meeting at which the public may comment on the recommendations; and

“(C) provide for a period of 30 days for the public to provide written comments on the recommendations.

“(2) PERFORMANCE AND FISCAL REPORT.—Beginning with fiscal year 2009, not later than 60 days after the end of each fiscal year during which fees are collected under this section, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes—

“(A) implementation of the registration fee authority during the fiscal year; and

“(B) the use by the Secretary of the fees collected during the fiscal year for which the report is made.”.

#### SEC. 10005. COUNTERFEIT-RESISTANT TECHNOLOGY.

(a) MISBRANDING.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352; deeming drugs and devices to be misbranded) is amended by adding at the end the following:

“(aa) If it is a drug subject to section 503(b), unless the packaging of such drug complies with the requirements of section 505E for counterfeit-resistant technologies.”.

(b) REQUIREMENTS.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 505D the following:

#### “SEC. 505E. COUNTERFEIT-RESISTANT TECHNOLOGIES.

“(a) INCORPORATION OF COUNTERFEIT-RESISTANT TECHNOLOGIES INTO PRESCRIPTION DRUG PACKAGING.—The Secretary shall require that the packaging of any drug subject to section 503(b) incorporate—

“(1) overt optically variable counterfeit-resistant technologies that are described in subsection (b) and comply with the standards of subsection (c); or

“(2) technologies that have an equivalent function of security, as determined by the Secretary.

“(b) ELIGIBLE TECHNOLOGIES.—Technologies described in this subsection—

“(1) shall be visible to the naked eye, providing for visual identification of product authenticity without the need for readers, microscopes, lighting devices, or scanners;

“(2) shall be similar to that used by the Bureau of Engraving and Printing to secure United States currency;

“(3) shall be manufactured and distributed in a highly secure, tightly controlled environment; and

“(4) should incorporate additional layers of non-visible covert security features up to and including forensic capability.

“(c) STANDARDS FOR PACKAGING.—

“(1) MULTIPLE ELEMENTS.—For the purpose of making it more difficult to counterfeit the packaging of drugs subject to section 503(b), manufacturers of the drugs shall incorporate the technologies described in subsection (b) into multiple elements of the physical packaging of the drugs, including blister packs, shrink wrap, package labels, package seals, bottles, and boxes.

“(2) LABELING OF SHIPPING CONTAINER.—Shipments of drugs described in subsection (a) shall include a label on the shipping container that incorporates the technologies described in subsection (b), so that officials inspecting the packages will be able to determine the authenticity of the shipment. Chain of custody procedures shall apply to

such labels and shall include procedures applicable to contractual agreements for the use and distribution of the labels, methods to audit the use of the labels, and database access for the relevant governmental agencies for audit or verification of the use and distribution of the labels.

“(d) **EFFECTIVE DATE.**—This section shall take effect 180 days after the date of enactment of the Pharmaceutical Market Access Act of 2009.”.

#### **SEC. 10006. PROHIBITED ACTS.**

Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by inserting after subsection (k) the following:

“(l) The failure to register in accordance with section 804(f) or to import or offer to import a prescription drug in violation of a suspension order under section 804(g).”.

#### **SEC. 10007. PATENTS.**

Section 271 of title 35, United States Code, is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following:

“(h) It shall not be an act of infringement to use, offer to sell, or sell within the United States or to import into the United States any patented invention under section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384) that was first sold abroad by or under authority of the owner or licensee of such patent.”.

#### **SEC. 10008. OTHER ENFORCEMENT ACTIONS.**

(a) **IN GENERAL.**—Section 804 of the Federal Food, Drug, and Cosmetic Act, as amended by section 10003, is amended by adding at the end the following:

“(1) **UNFAIR OR DISCRIMINATORY ACTS AND PRACTICES.**—

“(1) **IN GENERAL.**—It is unlawful for a manufacturer, directly or indirectly (including by being a party to a licensing or other agreement) to—

“(A) discriminate by charging a higher price for a prescription drug sold to a person in a permitted country that exports a prescription drug to the United States under this section than the price that is charged to another person that is in the same country and that does not export a prescription drug into the United States under this section;

“(B) discriminate by charging a higher price for a prescription drug sold to a person that distributes, sells, or uses a prescription drug imported into the United States under this section than the price that is charged to another person in the United States that does not import a prescription drug under this section, or that does not distribute, sell, or use such a drug;

“(C) discriminate by denying supplies of a prescription drug to a person in a permitted country that exports a prescription drug to the United States under this section or distributes, sells, or uses a prescription drug imported into the United States under this section;

“(D) discriminate by publicly, privately, or otherwise refusing to do business with a person in a permitted country that exports a prescription drug to the United States under this section or distributes, sells, or uses a prescription drug imported into the United States under this section;

“(E) discriminate by specifically restricting or delaying the supply of a prescription drug to a person in a permitted country that exports a prescription drug to the United States under this section or distributes, sells, or uses a prescription drug imported into the United States under this section;

“(F) cause there to be a difference (including a difference in active ingredient, route of administration, dosage form, strength, formulation, manufacturing establishment,

manufacturing process, or person that manufactures the drug) between a prescription drug for distribution in the United States and the drug for distribution in a permitted country for the purpose of restricting importation of the drug into the United States under this section;

“(G) refuse to allow an inspection authorized under this section of an establishment that manufactures a prescription drug that may be imported or offered for import under this section;

“(H) fail to conform to the methods used in, or the facilities used for, the manufacturing, processing, packing, or holding of a prescription drug that may be imported or offered for import under this section to good manufacturing practice under this Act;

“(I) become a party to a licensing or other agreement related to a prescription drug that fails to provide for compliance with all requirements of this section with respect to such prescription drug or that has the effect of prohibiting importation of the drug under this section; or

“(J) engage in any other action that the Federal Trade Commission determines to discriminate against a person that engages in, or to impede, delay, or block the process for, the importation of a prescription drug under this section.

“(2) **AFFIRMATIVE DEFENSE.**—It shall be an affirmative defense to a charge that a person has discriminated under subparagraph (A), (B), (C), (D), or (E) of paragraph (1) that the higher price charged for a prescription drug sold to a person, the denial of supplies of a prescription drug to a person, the refusal to do business with a person, or the specific restriction or delay of supplies to a person is not based, in whole or in part, on—

“(A) the person exporting or importing a prescription drug into the United States under this section; or

“(B) the person distributing, selling, or using a prescription drug imported into the United States under this section.

“(3) **PRESUMPTION AND AFFIRMATIVE DEFENSE.**—

“(A) **PRESUMPTION.**—A difference (including a difference in active ingredient, route of administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) created after January 1, 2009, between a prescription drug for distribution in the United States and the drug for distribution in a permitted country shall be presumed under paragraph (1)(F) to be for the purpose of restricting importation of the drug into the United States under this section.

“(B) **AFFIRMATIVE DEFENSE.**—It shall be an affirmative defense to the presumption under subparagraph (A) that—

“(i) the difference was required by the country in which the drug is distributed; or

“(ii) the Secretary has determined that the difference was necessary to improve the safety or effectiveness of the drug.

“(4) **EFFECT OF SUBSECTION.**—

“(A) **SALES IN OTHER COUNTRIES.**—This subsection applies only to the sale or distribution of a prescription drug in a country if the manufacturer of the drug chooses to sell or distribute the drug in the country. Nothing in this subsection shall be construed to compel the manufacturer of a drug to distribute or sell the drug in a country.

“(B) **DISCOUNTS TO INSURERS, HEALTH PLANS, PHARMACY BENEFIT MANAGERS, AND COVERED ENTITIES.**—Nothing in this subsection shall be construed to—

“(i) prevent or restrict a manufacturer of a prescription drug from providing discounts to an insurer, health plan, pharmacy benefit manager in the United States, or covered entity in the drug discount program under sec-

tion 340B of the Public Health Service Act (42 U.S.C. 256b) in return for inclusion of the drug on a formulary;

“(ii) require that such discounts be made available to other purchasers of the prescription drug; or

“(iii) prevent or restrict any other measures taken by an insurer, health plan, or pharmacy benefit manager to encourage consumption of such prescription drug.

“(C) **CHARITABLE CONTRIBUTIONS.**—Nothing in this subsection shall be construed to—

“(i) prevent a manufacturer from donating a prescription drug, or supplying a prescription drug at nominal cost, to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country; or

“(ii) apply to such donations or supplying of a prescription drug.

“(5) **ENFORCEMENT.**—

“(A) **UNFAIR OR DECEPTIVE ACT OR PRACTICE.**—A violation of this subsection shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act.

“(B) **ACTIONS BY THE COMMISSION.**—The Federal Trade Commission—

“(i) shall enforce this subsection in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this section; and

“(ii) may seek monetary relief threefold the damages sustained.

“(6) **ACTIONS BY STATES.**—

“(A) **IN GENERAL.**—

“(i) **CIVIL ACTIONS.**—The attorney general of a State may bring a civil action on behalf of the residents of the State, and persons doing business in the State, in a district court of the United States of appropriate jurisdiction for a violation of paragraph (1) to—

“(I) enjoin that practice;

“(II) enforce compliance with this subsection;

“(III) obtain damages, restitution, or other compensation on behalf of residents of the State and persons doing business in the State, including threefold the damages; or

“(IV) obtain such other relief as the court may consider to be appropriate.

“(ii) **NOTICE.**—

“(I) **IN GENERAL.**—Before filing an action under clause (i), the attorney general of the State involved shall provide to the Federal Trade Commission—

“(aa) written notice of that action; and

“(bb) a copy of the complaint for that action.

“(II) **EXEMPTION.**—Subclause (I) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph, if the attorney general determines that it is not feasible to provide the notice described in that subclause before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Federal Trade Commission at the same time as the attorney general files the action.

“(B) **INTERVENTION.**—

“(i) **IN GENERAL.**—On receiving notice under subparagraph (A)(ii), the Commission shall have the right to intervene in the action that is the subject of the notice.

“(ii) **EFFECT OF INTERVENTION.**—If the Commission intervenes in an action under subparagraph (A), it shall have the right—

“(I) to be heard with respect to any matter that arises in that action; and

“(II) to file a petition for appeal.

“(C) **CONSTRUCTION.**—For purposes of bringing any civil action under subparagraph (A),

nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

- “(i) conduct investigations;
- “(ii) administer oaths or affirmations; or
- “(iii) compel the attendance of witnesses or the production of documentary and other evidence.

“(D) ACTIONS BY THE COMMISSION.—

“(i) IN GENERAL.—In any case in which an action is instituted by or on behalf of the Commission for a violation of paragraph (1), a State may not, during the pendency of that action, institute an action under subparagraph (A) for the same violation against any defendant named in the complaint in that action.

“(ii) INTERVENTION.—An attorney general of a State may intervene, on behalf of the residents of that State, in an action instituted by the Commission.

“(iii) EFFECT OF INTERVENTION.—If an attorney general of a State intervenes in an action instituted by the Commission, such attorney general shall have the right—

- “(I) to be heard with respect to any matter that arises in that action; and
- “(II) to file a petition for appeal.

“(E) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

“(F) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

- “(i) is an inhabitant; or
- “(ii) may be found.

“(G) LIMITATION OF ACTIONS.—Any action under this paragraph to enforce a cause of action under this subsection by the Federal Trade Commission or the attorney general of a State shall be forever barred unless commenced within 5 years after the Federal Trade Commission, or the attorney general, as the case may be, knew or should have known that the cause of action accrued. No cause of action barred under existing law on the effective date of the Pharmaceutical Market Access Act of 2009 shall be revived by such Act.

“(H) MEASUREMENT OF DAMAGES.—In any action under this paragraph to enforce a cause of action under this subsection in which there has been a determination that a defendant has violated a provision of this subsection, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

“(I) EXCLUSION ON DUPLICATIVE RELIEF.—The district court shall exclude from the amount of monetary relief awarded in an action under this paragraph brought by the attorney general of a State any amount of monetary relief which duplicates amounts which have been awarded for the same injury.

“(7) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws. For the purpose of this subsection, the term ‘antitrust laws’ has the meaning given it in the first section of the Clayton Act, except that it includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

“(8) MANUFACTURER.—In this subsection, the term ‘manufacturer’ means any entity, including any affiliate or licensee of that entity, that is engaged in—

“(A) the production, preparation, propagation, compounding, conversion, or processing of a prescription drug, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

“(B) the packaging, repackaging, labeling, relabeling, or distribution of a prescription drug.”

(b) REGULATIONS.—The Federal Trade Commission shall promulgate regulations to carry out the enforcement program under section 804(l) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

(c) SUSPENSION AND TERMINATION OF EXPORTERS.—Section 804(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384(g)), as amended by section 10003(g), is amended by—

(1) striking “SUSPENSION OF IMPORTATION.—The Secretary” and inserting “SUSPENSION OF IMPORTATION.—

“(1) IN GENERAL.—The Secretary”; and

(2) adding at the end the following:

“(2) SUSPENSION AND TERMINATION OF EXPORTERS.—

“(A) SUSPENSION.—With respect to the effectiveness of a registration submitted under subsection (f) by a registered exporter:

“(i) Subject to clause (ii), if the Secretary determines, after notice and opportunity for a hearing, that the registered exporter has failed to maintain substantial compliance with all registration conditions, the Secretary may suspend the registration.

“(ii) If the Secretary determines that, under color of the registration, the registered exporter has exported a drug that is not a qualifying drug, or a drug that does not meet the criteria under this section, or has exported a qualifying drug to an individual in violation of this section, the Secretary shall immediately suspend the registration. A suspension under the preceding sentence is not subject to the provision by the Secretary of prior notice, and the Secretary shall provide to the registered exporter involved an opportunity for a hearing not later than 10 days after the date on which the registration is suspended.

“(iii) The Secretary may reinstate the registration, whether suspended under clause (i) or (ii), if the Secretary determines that the registered exporter has demonstrated that further violations of registration conditions will not occur.

“(B) TERMINATION.—The Secretary, after notice and opportunity for a hearing, may terminate the registration under subsection (f) of a registered exporter if the Secretary determines that the registered exporter has engaged in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under subparagraph (A)(ii) suspended the registration of the registered exporter. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration of a registered exporter is terminated, any registration submitted under subsection (f) by such exporter or a person who is a partner in the export enterprise or a principal officer in such enterprise, and any registration prepared with the assistance of such exporter or such a person, has no legal effect under this section.”

**SEC. 10009. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this title (and the amendments made by this title).

**SA 2864.** Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 156, line 4, strike all through page 157, line 7, and insert the following:

(D) REQUIREMENT OF MEMBERS OF CONGRESS TO ENROLL IN THE PUBLIC OPTION.—

(i) REQUIREMENT.—Notwithstanding any other provision of law, all Members of Congress shall be enrolled in the community health insurance option when established by the Secretary.

(ii) INELIGIBLE FOR FEHBP.—Effective on the date on which the community health insurance option is established by the Secretary, no Member of Congress shall be eligible to participate in a health benefits plan under chapter 89 of title 5, United States Code.

(iii) EMPLOYER CONTRIBUTION.—

(I) IN GENERAL.—The Secretary of the Senate or the Chief Administrative Officer of the House of Representatives shall pay the amount determined under subclause (II) to—

(aa) the appropriate community health insurance option; or

(bb) in the case of a Member of Congress who resides in a State which opts out of providing a community health insurance option and is enrolled in a plan offered through an Exchange, the appropriate Exchange.

(II) AMOUNT OF EMPLOYER CONTRIBUTION.—The Director of the Office of Personnel Management shall determine the amount of the employer contribution for each Member of Congress enrolled in a community health insurance option. The amount shall be equal to the employer contribution for the health benefits plan under chapter 89 of title 5, United States Code, with the greatest number of enrollees, except that the contribution shall be actuarially adjusted for age.

(iv) MILITARY MEDICAL TREATMENT FACILITIES AND THE OFFICE OF THE ATTENDING PHYSICIAN.—

(I) IN GENERAL.—Notwithstanding any other provision of law, a Member of Congress may not receive health care or medical treatment at any military medical treatment facility or at the Office of the Attending Physician.

(II) EXCEPTION.—Subclause (I) shall not apply to any case of a medical emergency in which the life of a Member of Congress is in immediate danger.

(v) DEFINITIONS.—In this subparagraph:

(I) COMMUNITY HEALTH INSURANCE OPTION.—The term “community health insurance option” means the health insurance established by the Secretary under section 1323.

(II) MEMBER OF CONGRESS.—The term “Member of Congress” means any member of the House of Representatives or the Senate.

**SA 2865.** Mr. BURRIS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 1249 between lines 6 and 7, insert the following:

(b) HOSPITAL COMPARE PATIENT SURVEYS.—

(1) IN GENERAL.—In implementing the Hospital Compare patient survey program, the Director of the Agency for Healthcare Research and Quality shall, in addition to collecting other information to reduce health disparities, collect information concerning—

(A) whether hospital staff effectively address cultural and linguistic barriers that may prevent patients from receiving quality health care; and

(B) whether hospital health promotion programs are effectively marketed in the community served by the hospital.

(2) REQUIREMENT TO TAKE INTO ACCOUNT SURVEY IN COMMUNITY HEALTH NEEDS ASSESSMENTS.—Section 501(r)(3)(B) of the Internal Revenue Code of 1986, as added by section 9007, is amended striking “and” at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

“(ii) takes into account the information collected under the Hospital Compare patient survey program, and”.

**SA 2866.** Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title IV, insert the following:

**SEC. 4307. CURES ACCELERATION NETWORK.**

(a) SHORT TITLE.—This section may be cited as the “Cures Acceleration Network Act of 2009”.

(b) REQUIREMENT FOR THE DIRECTOR OF NIH TO ESTABLISH A CURES ACCELERATION NETWORK.—Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (22), by striking “and” at the end;

(2) in paragraph (23), by striking the period and inserting “; and”; and

(3) by inserting after paragraph (23), the following:

“(24) implement the Cures Acceleration Network described in section 402C.”.

(c) ACCEPTING GIFTS TO SUPPORT THE CURES ACCELERATION NETWORK.—Section 499(c)(1) of the Public Health Service Act (42 U.S.C. 290b(c)(1)) is amended by adding at the end the following:

“(E) The Cures Acceleration Network described in section 402C.”.

(d) ESTABLISHMENT OF THE CURES ACCELERATION NETWORK.—Part A of title IV of the Public Health Service Act is amended by inserting after section 402B (42 U.S.C. 282b) the following:

**“SEC. 402C. CURES ACCELERATION NETWORK.**

“(a) DEFINITIONS.—In this section:

“(1) BIOLOGICAL PRODUCT.—The term ‘biological product’ has the meaning given such term in section 351 of the Public Health Service Act.

“(2) DRUG; DEVICE.—The terms ‘drug’ and ‘device’ have the meanings given such terms in section 201 of the Federal Food, Drug, and Cosmetic Act.

“(3) HIGH NEED CURE.—The term ‘high need cure’ means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act, biological product (as that term is defined by section 262(i)), or device (as that term is defined by section

201(h) of the Federal Food, Drug, and Cosmetic Act) that, in the determination of the Director of NIH—

“(A) is a priority to diagnose, mitigate, prevent, or treat harm from any disease or condition; and

“(B) for which the incentives of the commercial market are unlikely to result in its adequate or timely development.

“(4) MEDICAL PRODUCT.—The term ‘medical product’ means a drug, device, biological product, or product that is a combination of drugs, devices, and biological products.

“(b) ESTABLISHMENT OF THE CURES ACCELERATION NETWORK.—Subject to the appropriation of funds as described in subsection (g), there is established within the Office of the Director of NIH a program to be known as the Cures Acceleration Network (referred to in this section as ‘CAN’), which shall—

“(1) be under the direction of the Director of NIH, taking into account the recommendations of a CAN Review Board (referred to in this section as the ‘Board’), described in subsection (d); and

“(2) award grants and contracts to eligible entities, as described in subsection (e), to accelerate the development of high need cures, including through the development of medical products and behavioral therapies.

“(c) FUNCTIONS.—The functions of the CAN are to—

“(1) conduct and support revolutionary advances in basic research, translating scientific discoveries from bench to bedside;

“(2) award grants and contracts to eligible entities to accelerate the development of high need cures;

“(3) provide the resources necessary for government agencies, independent investigators, research organizations, biotechnology companies, academic research institutions, and other entities to develop high need cures;

“(4) reduce the barriers between laboratory discoveries and clinical trials for new therapies; and

“(5) facilitate review in the Food and Drug Administration for the high need cures funded by the CAN, through activities that may include—

“(A) the facilitation of regular and ongoing communication with the Food and Drug Administration regarding the status of activities conducted under this section;

“(B) ensuring that such activities are coordinated with the approval requirements of the Food and Drug Administration, with the goal of expediting the development and approval of countermeasures and products; and

“(C) connecting interested persons with additional technical assistance made available under section 565 of the Federal Food, Drug, and Cosmetic Act.

“(d) CAN BOARD.—

“(1) ESTABLISHMENT.—There is established a Cures Acceleration Network Review Board (referred to in this section as the ‘Board’), which shall advise the Director of NIH on the conduct of the activities of the Cures Acceleration Network.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—

“(i) APPOINTMENT.—The Board shall be comprised of 24 members who are appointed by the Secretary and who serve at the pleasure of the Secretary.

“(ii) CHAIRPERSON AND VICE CHAIRPERSON.—The Secretary shall designate, from among the 24 members appointed under clause (i), one Chairperson of the Board (referred to in this section as the ‘Chairperson’) and one Vice Chairperson.

“(B) TERMS.—

“(i) IN GENERAL.—Each member shall be appointed to serve a 4-year term, except that any member appointed to fill a vacancy occurring prior to the expiration of the term

for which the member's predecessor was appointed shall be appointed for the remainder of such term.

“(ii) CONSECUTIVE APPOINTMENTS; MAXIMUM TERMS.—A member may be appointed to serve not more than 3 terms on the Board, and may not serve more than 2 such terms consecutively.

“(C) QUALIFICATIONS.—

“(i) IN GENERAL.—The Secretary shall appoint individuals to the Board based solely upon the individual's established record of distinguished service in one of the areas of expertise described in clause (ii). Each individual appointed to the Board shall be of distinguished achievement and have a broad range of disciplinary interests.

“(ii) EXPERTISE.—The Secretary shall select individuals based upon the following requirements:

“(I) For each of the fields of—

“(aa) basic research;

“(bb) medicine;

“(cc) biopharmaceuticals;

“(dd) discovery and delivery of medical products;

“(ee) bioinformatics and gene therapy;

“(ff) medical instrumentation; and

“(gg) regulatory review and approval of medical products,

the Secretary shall select at least 1 individual who is eminent in such fields.

“(II) At least 4 individuals shall be recognized leaders in professional venture capital or private equity organizations and have demonstrated experience in private equity investing.

“(III) At least 8 individuals shall represent disease advocacy organizations.

“(3) EX-OFFICIO MEMBERS.—

“(A) APPOINTMENT.—In addition to the 24 Board members described in paragraph (2), the Secretary shall appoint as ex-officio members of the Board—

“(i) a representative of the National Institutes of Health, recommended by the Secretary of the Department of Health and Human Services;

“(ii) a representative of the Office of the Assistant Secretary of Defense for Health Affairs, recommended by the Secretary of Defense;

“(iii) a representative of the Office of the Under Secretary for Health for the Veterans Health Administration, recommended by the Secretary of Veterans Affairs;

“(iv) a representative of the National Science Foundation, recommended by the Chair of the National Science Board; and

“(v) a representative of the Food and Drug Administration, recommended by the Commissioner of Food and Drugs.

“(B) TERMS.—Each ex-officio member shall serve a 3-year term on the Board, except that the Chairperson may adjust the terms of the initial ex-officio members in order to provide for a staggered term of appointment for all such members.

“(4) RESPONSIBILITIES OF THE BOARD AND THE DIRECTOR OF NIH.—

“(A) RESPONSIBILITIES OF THE BOARD.—

“(i) IN GENERAL.—The Board shall advise, and provide recommendations to, the Director of NIH with respect to—

“(I) policies, programs, and procedures for carrying out the duties of the Director of NIH under this section; and

“(II) significant barriers to successful translation of basic science into clinical application (including issues under the purview of other agencies and departments).

“(ii) REPORT.—In the case that the Board identifies a significant barrier, as described in clause (i)(II), the Board shall submit to the Secretary a report regarding such barrier.

“(B) RESPONSIBILITIES OF THE DIRECTOR OF NIH.—With respect to each recommendation

provided by the Board under subparagraph (A)(i), the Director of NIH shall respond in writing to the Board, indicating whether such Director will implement such recommendation. In the case that the Director of NIH indicates a recommendation of the Board will not be implemented, such Director shall provide an explanation of the reasons for not implementing such recommendation.

“(5) MEETINGS.—

“(A) IN GENERAL.—The Board shall meet 4 times per calendar year, at the call of the Chairperson.

“(B) QUORUM; REQUIREMENTS; LIMITATIONS.—

“(i) QUORUM.—A quorum shall consist of a total of 13 members of the Board, excluding ex-officio members, with diverse representation as described in clause (iii).

“(ii) CHAIRPERSON OR VICE CHAIRPERSON.—Each meeting of the Board shall be attended by either the Chairperson or the Vice Chairperson.

“(iii) DIVERSE REPRESENTATION.—At each meeting of the Board, there shall be not less than one scientist, one representative of a disease advocacy organization, and one representative of a professional venture capital or private equity organization.

“(6) COMPENSATION AND TRAVEL EXPENSES.—

“(A) COMPENSATION.—Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Board. All members of the Board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

“(B) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Federal Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

“(e) GRANT PROGRAM.—

“(1) SUPPORTING INNOVATION.—To carry out the purposes described in this section, the Director of NIH shall award contracts, grants, or cooperative agreements to the entities described in paragraph (2), to—

“(A) promote innovation in technologies supporting the advanced research and development and production of high need cures, including through the development of medical products and behavioral therapies;

“(B) accelerate the development of high need cures, including through the development of medical products, behavioral therapies, and biomarkers that demonstrate the safety or effectiveness of medical products; or

“(C) help the award recipient establish protocols that comply with Food and Drug Administration standards and otherwise permit the recipient to meet regulatory requirements at all stages of development, manufacturing, review, approval, and safety surveillance of a medical product.

“(2) ELIGIBLE ENTITIES.—To receive assistance under paragraph (1), an entity shall—

“(A) be a public or private entity, which may include a private or public research institution, an institution of higher education, a medical center, a biotechnology company, a pharmaceutical company, a disease advocacy organization, a patient advocacy organiza-

nization, or an academic research institution;

“(B) submit an application containing—

“(i) a detailed description of the project for which the entity seeks such grant or contract;

“(ii) a timetable for such project;

“(iii) an assurance that the entity will submit—

“(I) interim reports describing the entity's—

“(aa) progress in carrying out the project; and

“(bb) compliance with all provisions of this section and conditions of receipt of such grant or contract; and

“(II) a final report at the conclusion of the grant period, describing the outcomes of the project; and

“(iv) a description of the protocols the entity will follow to comply with Food and Drug Administration standards and regulatory requirements at all stages of development, manufacturing, review, approval, and safety surveillance of a medical product; and

“(C) provide such additional information as the Director of NIH may require.

“(3) AWARDS.—

“(A) THE CURES ACCELERATION PARTNERSHIP AWARDS.—

“(i) INITIAL AWARD AMOUNT.—Each award under this subparagraph shall be not more than \$15,000,000 per project for the first fiscal year for which the project is funded, which shall be payable in one payment.

“(ii) FUNDING IN SUBSEQUENT FISCAL YEARS.—An eligible entity receiving an award under clause (i) may apply for additional funding for such project by submitting to the Director of NIH the information required under subparagraphs (B) and (C) of paragraph (2). The Director may fund a project of such eligible entity in an amount not to exceed \$15,000,000 for a fiscal year subsequent to the initial award under clause (i).

“(iii) MATCHING FUNDS.—As a condition for receiving an award under this subsection, an eligible entity shall contribute to the project non-Federal funds in the amount of \$1 for every \$3 awarded under clauses (i) and (ii), except that the Director of NIH may waive or modify such matching requirement in any case where the Director determines that the goals and objectives of this section cannot adequately be carried out unless such requirement is waived.

“(B) THE CURES ACCELERATION GRANT AWARDS.—

“(i) INITIAL AWARD AMOUNT.—Each award under this subparagraph shall be not more than \$15,000,000 per project for the first fiscal year for which the project is funded, which shall be payable in one payment.

“(ii) FUNDING IN SUBSEQUENT FISCAL YEARS.—An eligible entity receiving an award under clause (i) may apply for additional funding for such project by submitting to the Board the information required under subparagraphs (B) and (C) of paragraph (2). The Director of NIH may fund a project of such eligible entity in an amount not to exceed \$15,000,000 for a fiscal year subsequent to the initial award under clause (i).

“(C) THE CURES ACCELERATION FLEXIBLE RESEARCH AWARDS.—If the Director of NIH determines that the goals and objectives of this section cannot adequately be carried out through a contract, grant, or cooperative agreement, the Director of NIH shall have flexible research authority to use other transactions to fund projects in accordance with the terms and conditions of this section. Awards made under such flexible research authority for a fiscal year shall not exceed 20 percent of the total funds appropriated under subsection (g)(1) for such fiscal year.

“(4) SUSPENSION OF AWARDS FOR DEFAULTS, NONCOMPLIANCE WITH PROVISIONS AND PLANS, AND DIVERSION OF FUNDS; REPAYMENT OF FUNDS.—The Director of NIH may suspend the award to any entity upon noncompliance by such entity with provisions and plans under this section or diversion of funds.

“(5) AUDITS.—The Director of NIH may enter into agreements with other entities to conduct periodic audits of the projects funded by grants or contracts awarded under this subsection.

“(6) CLOSEOUT PROCEDURES.—At the end of a grant or contract period, a recipient shall follow the closeout procedures under section 74.71 of title 45, Code of Federal Regulations (or any successor regulation).

“(7) REVIEW.—A determination by the Director of NIH as to whether a drug, device, or biological product is a high need cure (for purposes of subsection (a)(3)) shall not be subject to judicial review.

“(f) COMPETITIVE BASIS OF AWARDS.—Any grant, cooperative agreement, or contract awarded under this section shall be awarded on a competitive basis.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—For purposes of carrying out this section, there are authorized to be appropriated \$500,000,000 for fiscal year 2010, and such sums as may be necessary for subsequent fiscal years. Funds appropriated under this section shall be available until expended.

“(2) LIMITATION ON USE OF FUNDS OTHERWISE APPROPRIATED.—No funds appropriated under this Act, other than funds appropriated under paragraph (1), may be allocated to the Cures Acceleration Network.”.

**SA 2867.** Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title IV, insert the following:

**SEC. . INCREASE IN FUNDING FOR THE NATIONAL INSTITUTES OF HEALTH.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 402A(a) of the Public Health Service Act (42 U.S.C. 282a(a)) is amended by striking paragraphs (1) through (3) and inserting the following:

“(1) \$40,000,000,000 for fiscal year 2010; and

“(2) such sums as may be necessary for each of fiscal years 2011 and 2012.”.

(b) OFFICE OF THE DIRECTOR.—Section 402A(b) of the Public Health Service Act (42 U.S.C. 282a(b)) is amended by striking “2007 through 2009” and inserting “2010 through 2012”.

**SA 2868.** Mr. BURRIS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 147, line 19, strike “and”.

On page 147, line 21, strike the period and insert “; and”.

On page 147, between lines 21 and 22, insert the following:

“(E) the implementation of activities that reduce health care disparities, including through the use of language services, community outreach, and cultural competency training.”.

**SA 2869.** Mr. NELSON of Florida (for himself, Mr. ROCKEFELLER, Mr. BEGICH, Mr. LEAHY, Mr. BROWN, Ms. STABENOW, and Mrs. SHAHEEN) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 974, between lines 9 and 10, insert the following:

(b) **ELIMINATION OF COVERAGE GAP.**—Section 1860D-2(b) of the Social Security Act (42 U.S.C. 1395w-102(b)) is further amended—

(1) in paragraph (3)(A), by striking “and (7)” and inserting “, (7), and (8)”;

(2) in paragraph (4)(B)(i), by inserting “subject to paragraph (8)” after “purposes of this part”; and

(3) by adding at the end the following new paragraph:

“(8) **PHASED-IN ELIMINATION OF COVERAGE GAP.**—

“(A) **IN GENERAL.**—For each year beginning with 2011, the Secretary shall consistent with this paragraph progressively increase the initial coverage limit (described in subsection (b)(3)) and decrease the annual out-of-pocket threshold from the amounts otherwise computed until there is a continuation of coverage from the initial coverage limit for expenditures incurred through the total amount of expenditures at which benefits are available under paragraph (4).

“(B) **INCREASE IN INITIAL COVERAGE LIMIT.**—For a year beginning with 2011, the initial coverage limit otherwise computed without regard to this paragraph shall be increased by  $\frac{1}{2}$  of the cumulative phase-in percentage (as defined in subparagraph (D)(ii) for the year) times the out-of-pocket gap amount (as defined in subparagraph (E)) for the year.

“(C) **DECREASE IN ANNUAL OUT-OF-POCKET THRESHOLD.**—For a year beginning with 2011, the annual out-of-pocket threshold otherwise computed without regard to this paragraph shall be decreased by  $\frac{1}{2}$  of the cumulative phase-in percentage of the out-of-pocket gap amount for the year multiplied by 1.75.

“(D) **PHASE-IN.**—For purposes of this paragraph:

“(i) **ANNUAL PHASE-IN PERCENTAGE.**—The term ‘annual phase-in percentage’ means—

“(I) for 2011, 13 percent;

“(II) for 2012, 2013, 2014, and 2015, 5 percent;

“(III) for 2016 through 2018, 7.5 percent; and

“(IV) for 2019 and each subsequent year, 10 percent.

“(ii) **CUMULATIVE PHASE-IN PERCENTAGE.**—The term ‘cumulative phase-in percentage’ means for a year the sum of the annual phase-in percentage for the year and the annual phase-in percentages for each previous year beginning with 2011, but in no case more than 100 percent.

“(E) **OUT-OF-POCKET GAP AMOUNT.**—For purposes of this paragraph, the term ‘out-of-pocket gap amount’ means for a year the amount by which—

“(i) the annual out-of-pocket threshold specified in paragraph (4)(B) for the year (as

determined as if this paragraph did not apply), exceeds

“(ii) the sum of—

“(I) the annual deductible under paragraph (1) for the year; and

“(II)  $\frac{1}{4}$  of the amount by which the initial coverage limit under paragraph (3) for the year (as determined as if this paragraph did not apply) exceeds such annual deductible.”.

(c) **REQUIRING DRUG MANUFACTURERS TO PROVIDE DRUG REBATES FOR FULL-BENEFIT DUAL ELIGIBLES.**—

(1) **IN GENERAL.**—Section 1860D-2 of the Social Security Act (42 U.S.C. 1396r-8) is amended—

(A) in subsection (e)(1), in the matter before subparagraph (A), by inserting “and subsection (f)” after “this subsection”; and

(B) by adding at the end the following new subsection:

“(f) **PRESCRIPTION DRUG REBATE AGREEMENT FOR FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS.**—

“(1) **IN GENERAL.**—In this part, the term ‘covered part D drug’ does not include any drug or biologic that is manufactured by a manufacturer that has not entered into and have in effect a rebate agreement described in paragraph (2).

“(2) **REBATE AGREEMENT.**—A rebate agreement under this subsection shall require the manufacturer to provide to the Secretary a rebate for each rebate period (as defined in paragraph (6)(B)) ending after December 31, 2010, in the amount specified in paragraph (3) for any covered part D drug of the manufacturer dispensed after December 31, 2010, to any full-benefit dual eligible individual (as defined in paragraph (6)(A)) for which payment was made by a PDP sponsor under part D or a MA organization under part C for such period. Such rebate shall be paid by the manufacturer to the Secretary not later than 30 days after the date of receipt of the information described in section 1860D-12(b)(7), including as such section is applied under section 1857(f)(3).

“(3) **REBATE FOR FULL-BENEFIT DUAL ELIGIBLE MEDICARE DRUG PLAN ENROLLEES.**—

“(A) **IN GENERAL.**—The amount of the rebate specified under this paragraph for a manufacturer for a rebate period, with respect to each dosage form and strength of any covered part D drug provided by such manufacturer and dispensed to a full-benefit dual eligible individual, shall be equal to the product of—

“(i) the total number of units of such dosage form and strength of the drug so provided and dispensed for which payment was made by a PDP sponsor under part D or a MA organization under part C for the rebate period (as reported under section 1860D-12(b)(7), including as such section is applied under section 1857(f)(3)); and

“(ii) the amount (if any) by which—

“(I) the Medicaid rebate amount (as defined in subparagraph (B)) for such form, strength, and period, exceeds

“(II) the average Medicare drug program full-benefit dual eligible rebate amount (as defined in subparagraph (C)) for such form, strength, and period.

“(B) **MEDICAID REBATE AMOUNT.**—For purposes of this paragraph, the term ‘Medicaid rebate amount’ means, with respect to each dosage form and strength of a covered part D drug provided by the manufacturer for a rebate period—

“(i) in the case of a single source drug or an innovator multiple source drug, the amount specified in paragraph (1)(A)(ii) of section 1927(b) plus the amount, if any, specified in paragraph (2)(A)(ii) of such section, for such form, strength, and period; or

“(ii) in the case of any other covered outpatient drug, the amount specified in para-

graph (3)(A)(i) of such section for such form, strength, and period.

“(C) **AVERAGE MEDICARE DRUG PROGRAM FULL-BENEFIT DUAL ELIGIBLE REBATE AMOUNT.**—For purposes of this subsection, the term ‘average Medicare drug program full-benefit dual eligible rebate amount’ means, with respect to each dosage form and strength of a covered part D drug provided by a manufacturer for a rebate period, the sum, for all PDP sponsors under part D and MA organizations administering a MA-PD plan under part C, of—

“(i) the product, for each such sponsor or organization, of—

“(I) the sum of all rebates, discounts, or other price concessions (not taking into account any rebate provided under paragraph (2) for such dosage form and strength of the drug dispensed, calculated on a per-unit basis, but only to the extent that any such rebate, discount, or other price concession applies equally to drugs dispensed to full-benefit dual eligible Medicare drug plan enrollees and drugs dispensed to PDP and MA-PD enrollees who are not full-benefit dual eligible individuals; and

“(II) the number of the units of such dosage and strength of the drug dispensed during the rebate period to full-benefit dual eligible individuals enrolled in the prescription drug plans administered by the PDP sponsor or the MA-PD plans administered by the MA-PD organization; divided by

“(ii) the total number of units of such dosage and strength of the drug dispensed during the rebate period to full-benefit dual eligible individuals enrolled in all prescription drug plans administered by PDP sponsors and all MA-PD plans administered by MA-PD organizations.

“(4) **LENGTH OF AGREEMENT.**—The provisions of paragraph (4) of section 1927(b) (other than clauses (iv) and (v) of subparagraph (B)) shall apply to rebate agreements under this subsection in the same manner as such paragraph applies to a rebate agreement under such section.

“(5) **OTHER TERMS AND CONDITIONS.**—The Secretary shall establish other terms and conditions of the rebate agreement under this subsection, including terms and conditions related to compliance, that are consistent with this subsection.

“(6) **DEFINITIONS.**—In this subsection and section 1860D-12(b)(7):

“(A) **FULL-BENEFIT DUAL ELIGIBLE INDIVIDUAL.**—The term ‘full-benefit dual eligible individual’ has the meaning given such term in section 1935(c)(6).

“(B) **REBATE PERIOD.**—The term ‘rebate period’ has the meaning given such term in section 1927(k)(8).”.

(2) **REPORTING REQUIREMENT FOR THE DETERMINATION AND PAYMENT OF REBATES BY MANUFACTURERS RELATED TO REBATE FOR FULL-BENEFIT DUAL ELIGIBLE MEDICARE DRUG PLAN ENROLLEES.**—

(A) **REQUIREMENTS FOR PDP SPONSORS.**—Section 1860D-12(b) of the Social Security Act (42 U.S.C. 1395w-112(b)) is amended by adding at the end the following new paragraph:

“(7) **REPORTING REQUIREMENT FOR THE DETERMINATION AND PAYMENT OF REBATES BY MANUFACTURERS RELATED TO REBATE FOR FULL-BENEFIT DUAL ELIGIBLE MEDICARE DRUG PLAN ENROLLEES.**—

“(A) **IN GENERAL.**—For purposes of the rebate under section 1860D-2(f) for contract years beginning on or after January 1, 2011, each contract entered into with a PDP sponsor under this part with respect to a prescription drug plan shall require that the sponsor comply with subparagraphs (B) and (C).



“(B) REPORT FORM AND CONTENTS.—Not later than 60 days after the end of each rebate period (as defined in section 1860D-2(f)(6)(B)) within such a contract year to which such section applies, a PDP sponsor of a prescription drug plan under this part shall report to each manufacturer—

“(i) information (by National Drug Code number) on the total number of units of each dosage, form, and strength of each drug of such manufacturer dispensed to full-benefit dual eligible Medicare drug plan enrollees under any prescription drug plan operated by the PDP sponsor during the rebate period;

“(ii) information on the price discounts, price concessions, and rebates for such drugs for such form, strength, and period;

“(iii) information on the extent to which such price discounts, price concessions, and rebates apply equally to full-benefit dual eligible Medicare drug plan enrollees and PDP enrollees who are not full-benefit dual eligible Medicare drug plan enrollees; and

“(iv) any additional information that the Secretary determines is necessary to enable the Secretary to calculate the average Medicare drug program full-benefit dual eligible rebate amount (as defined in paragraph (3)(C) of such section), and to determine the amount of the rebate required under this section, for such form, strength, and period. Such report shall be in a form consistent with a standard reporting format established by the Secretary.

“(C) SUBMISSION TO SECRETARY.—Each PDP sponsor shall promptly transmit a copy of the information reported under subparagraph (B) to the Secretary for the purpose of audit oversight and evaluation.

“(D) CONFIDENTIALITY OF INFORMATION.—The provisions of subparagraph (D) of section 1927(b)(3), relating to confidentiality of information, shall apply to information reported by PDP sponsors under this paragraph in the same manner that such provisions apply to information disclosed by manufacturers or wholesalers under such section, except—

“(i) that any reference to ‘this section’ in clause (1) of such subparagraph shall be treated as being a reference to this section;

“(ii) the reference to the Director of the Congressional Budget Office in clause (iii) of such subparagraph shall be treated as including a reference to the Medicare Payment Advisory Commission; and

“(iii) clause (iv) of such subparagraph shall not apply.

“(E) OVERSIGHT.—Information reported under this paragraph may be used by the Inspector General of the Department of Health and Human Services for the statutorily authorized purposes of audit, investigation, and evaluations.

“(F) PENALTIES FOR FAILURE TO PROVIDE TIMELY INFORMATION AND PROVISION OF FALSE INFORMATION.—In the case of a PDP sponsor—

“(i) that fails to provide information required under subparagraph (B) on a timely basis, the sponsor is subject to a civil money penalty in the amount of \$10,000 for each day in which such information has not been provided; or

“(ii) that knowingly (as defined in section 1128A(i)) provides false information under such subparagraph, the sponsor is subject to a civil money penalty in an amount not to exceed \$100,000 for each item of false information.

Such civil money penalties are in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).”.

(B) APPLICATION TO MA ORGANIZATIONS.—Section 1857(f)(3) of the Social Security Act (42 U.S.C. 1395w-27(f)(3)) is amended by adding at the end the following:

“(D) REPORTING REQUIREMENT RELATED TO REBATE FOR FULL-BENEFIT DUAL ELIGIBLE MEDICARE DRUG PLAN ENROLLEES.—Section 1860D-12(b)(7).”.

(3) DEPOSIT OF REBATES INTO MEDICARE PRESCRIPTION DRUG ACCOUNT.—Section 1860D-16(c) of such Act (42 U.S.C. 1395w-116(c)) is amended by adding at the end the following new paragraph:

“(6) REBATE FOR FULL-BENEFIT DUAL ELIGIBLE MEDICARE DRUG PLAN ENROLLEES.—Amounts paid under a rebate agreement under section 1860D-2(f) shall be deposited into the Account and shall be used to pay for all or part of the gradual elimination of the coverage gap under section 1860D-2(b)(7).”.

(d) SUNSET OF MEDICARE COVERAGE GAP DISCOUNT PROGRAM.—Section 3301 of this Act is amended by adding at the end the following new subsection:

“(e) SUNSET OF MEDICARE COVERAGE GAP DISCOUNT PROGRAM.—The amendments made by this section shall cease to be effective as of the date on which there is a continuation of coverage from the initial coverage limit for expenditures incurred through the total amount of expenditures at which benefits are available under section 1860D-2(b)(4).”.

**SA 2870.** Mr. WHITEHOUSE proposed an amendment to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ SENSE OF THE SENATE PROMOTING FISCAL RESPONSIBILITY.**

(a) FINDINGS.—The Senate makes the following findings:

(1) Based on Congressional Budget Office (CBO) estimates, this Act will reduce the Federal deficit between 2010 and 2019.

(2) CBO projects this Act will continue to reduce budget deficits after 2019.

(3) Based on CBO estimates, this Act will extend the solvency of the Medicare HI Trust Fund.

(4) This Act will increase the surplus in the Social Security Trust Fund, which should be reserved to strengthen the finances of Social Security.

(5) The initial net savings generated by the Community Living Assistance Services and Supports (CLASS) program are necessary to ensure the long-term solvency of that program.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the additional surplus in the Social Security Trust Fund generated by this Act should be reserved for Social Security and not spent in this Act for other purposes; and

(2) the net savings generated by the CLASS program should be reserved for the CLASS program and not spent in this Act for other purposes.

**SA 2871.** Mr. BROWN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time

homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 97, between lines 6 and 7, insert the following:

**“SEC. 2710. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.**

“(a) COVERAGE.—

“(1) IN GENERAL.—If a group health plan or a health insurance issuer offering group or individual health insurance coverage provides coverage to a qualified individual, then such plan or issuer—

“(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

“(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs; and

“(C) may not discriminate against the individual on the basis of the individual's participation in such trial.

“(2) ROUTINE PATIENT COSTS.—

“(A) INCLUSION.—For purposes of paragraph (1)(B), subject to subparagraph (B), routine patient costs include all items and services consistent with the coverage provided in the plan (or coverage) that is typically covered for a qualified individual who is not enrolled in a clinical trial.

“(B) EXCLUSION.—For purposes of paragraph (1)(B), routine patient costs does not include—

“(i) the investigational item, device, or service, itself;

“(ii) items and services that are provided solely to satisfy data collection and analysis needs and that are not used in the direct clinical management of the patient; or

“(iii) a service that is clearly inconsistent with widely accepted and established standards of care for a particular diagnosis.

“(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

“(4) USE OF OUT-OF-NETWORK.—Notwithstanding paragraph (3), paragraph (1) shall apply to a qualified individual participating in an approved clinical trial that is conducted outside the State in which the qualified individual resides.

“(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ‘qualified individual’ means an individual who is a participant or beneficiary in a health plan or with coverage described in subsection (a)(1) and who meets the following conditions:

“(1) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of cancer or other life-threatening disease or condition.

“(2) Either—

“(A) the referring health care professional is a participating health care provider and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

“(B) the participant or beneficiary provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

“(c) LIMITATIONS ON COVERAGE.—This section shall not be construed to require a

group health plan, or a health insurance issuer offering group or individual health insurance coverage, to provide benefits for routine patient care services provided outside of the plan's (or coverage's) health care provider network unless out-of-network benefits are otherwise provided under the plan (or coverage).

“(d) APPROVED CLINICAL TRIAL DEFINED.—

“(1) IN GENERAL.—In this section, the term ‘approved clinical trial’ means a clinical trial (including a phase I, phase II, phase III, or phase IV trial) that is conducted in relation to the treatment of cancer or other life-threatening disease or condition and is described in any of the following subparagraphs:

“(A) The study or investigation is approved or funded (which may include funding through in-kind contributions) by one or more of the following:

- “(i) The National Institutes of Health.
- “(ii) The Centers for Disease Control and Prevention.
- “(iii) The Agency for Health Care Research and Quality.
- “(iv) The Centers for Medicare & Medicaid Services.

“(v) A cooperative group or center of any of the entities described in clauses (i) through (iv) or the Department of Defense or the Department of Veterans Affairs.

“(vi) A qualified non-governmental research entity identified in the guidelines issued by the National Institutes of Health for center support grants.

“(vii) Any of the following if the conditions described in paragraph (2) are met:

- “(I) The Department of Veterans Affairs.
- “(II) The Department of Defense.
- “(III) The Department of Energy.

“(B) The study or investigation is conducted in accordance with the requirements for investigational new drugs or investigational devices under the Federal Food, Drug, and Cosmetic Act.

“(C) The study or investigation is a clinical trial of a drug or device that is exempt from the requirements described under subparagraph (B).

“(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

“(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

“(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

“(e) LIFE-THREATENING CONDITION DEFINED.—In this section, the term ‘life-threatening condition’ means any disease or condition from which the likelihood of death is probable unless the course of the disease or condition is interrupted.

“(f) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

“(g) APPLICATION TO FEHBP.—Notwithstanding any provision of chapter 89 of title 5, United States Code, this section shall apply to health plans offered under the program under such chapter.

“(h) PREEMPTION.—Notwithstanding any other provision of this Act, nothing in this section shall preempt State laws that require a clinical trials policy for State regulated health insurance plans that is in addition to the policy required under this section.”.

**SA 2872.** Mr. BROWN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 1465, between lines 12 and 13, insert the following:

**SEC. 5506. COUNTING RESIDENT TIME IN CERTAIN HOSPITALS.**

(a) GME.—Section 1886(h)(4) of the Social Security Act (42 U.S.C. 1395ww(h)(4)), as amended by sections 5504 and 5505, is amended—

(1) in subparagraph (E), by striking “and (K)” and inserting “, (K), and (L)”; and

(2) by adding at the end the following new subparagraph:

“(L) COUNTING RESIDENT TIME IN CERTAIN HOSPITALS.—

“(i) IN GENERAL.—Such rules shall provide that all the time spent by a resident under an approved medical training program in a hospital described in clause (ii) shall be counted toward the determination of full-time equivalency by the hospital that incurs the costs of the stipends and fringe benefits of the resident during the time the resident spends in the hospital described in clause (ii).

“(ii) HOSPITAL DESCRIBED.—A hospital described in this clause is a hospital that—

“(I) trains 3 or fewer full-time equivalent residents annually;

“(II) consents, not later than 1 year after the date on which the residents involved begin training under such approved medical training program (and annually thereafter), to forgo payments for direct graduate medical education costs under this subsection for such residents; and

“(III) has not had an approved FTE resident amount determined for the hospital under paragraph (2) as of the date on which such residents begin such training.”.

(b) IME.—Section 1886(d)(5)(B) of such Act (42 U.S.C. 1395ww(d)(5)(B)), as amended by section 5505, is amended by adding at the end the following new clause:

“(xi) The provisions of subparagraph (L) of subsection (h)(4) shall apply under this subparagraph in the same manner as they apply under such subsection.”.

(c) CONFORMING AMENDMENT.—Section 1886(h)(2) of such Act (42 U.S.C. 1395 ww(h)(2)) is amended by adding at the end the following new subparagraph:

“(G) EXCEPTION TO DETERMINATION OF PER RESIDENT AMOUNT.—The Secretary shall not determine an approved FTE resident amount under this paragraph for any hospital described in paragraph (4)(L)(ii).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after January 1, 2009.

**SA 2873.** Mr. BROWN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1390, strike line 25 and all that follows through line 21 on page 1393, and insert the following:

“(4) to identify and refer underserved populations to appropriate healthcare agencies and community-based programs and organizations in order to increase access to quality healthcare services and to eliminate duplicative care; or

“(5) to educate, guide, and provide home visitation services regarding maternal health and prenatal care.

“(c) APPLICATION.—Each eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may require.

“(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to applicants that—

“(1) propose to target geographic areas—

“(A) with a high percentage of residents who are eligible for health insurance but are uninsured or underinsured;

“(B) with a high percentage of residents who suffer from chronic diseases; or

“(C) with a high infant mortality rate;

“(2) have experience in providing health or health-related social services to individuals who are underserved with respect to such services; and

“(3) have documented community activity and experience with community health workers.

“(e) COLLABORATION WITH ACADEMIC INSTITUTIONS AND THE ONE-STOP DELIVERY SYSTEM.—The Secretary shall encourage community health worker programs receiving funds under this section to collaborate with academic institutions and one-stop delivery systems under section 134(c) of the Workforce Investment Act of 1998. Nothing in this section shall be construed to require such collaboration.

“(f) EVIDENCE-BASED INTERVENTIONS.—The Secretary shall encourage community health worker programs receiving funding under this section to implement a process or an outcome-based payment system that rewards community health workers for connecting underserved populations with the most appropriate services at the most appropriate time. Nothing in this section shall be construed to require such a payment.

“(g) QUALITY ASSURANCE AND COST EFFECTIVENESS.—The Secretary shall establish guidelines for assuring the quality of the training and supervision of community health workers under the programs funded under this section and for assuring the cost-effectiveness of such programs.

“(h) MONITORING.—The Secretary shall monitor community health worker programs identified in approved applications under this section and shall determine whether such programs are in compliance with the guidelines established under subsection (g).

“(i) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to community health worker programs identified in approved applications under this section with respect to planning, developing, and operating programs under the grant.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out this section for each of fiscal years 2010 through 2014.

“(k) DEFINITIONS.—In this section:

“(1) COMMUNITY HEALTH WORKER.—The term ‘community health worker’ means an individual who promotes health or nutrition within the community in which the individual resides—

**SA 2874.** Mr. BROWN submitted an amendment intended to be proposed to

amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 1069, line 1, insert "community health workers," after "social workers,".

**SA 2875.** Mr. BROWN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 536, line 10, insert "community health worker," after "social worker,".

**SA 2876.** Mr. BROWN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 816, after line 20, insert the following:

**SEC. 3115. WAIVER OF MEDICARE DME SURETY BOND REQUIREMENT FOR CERTAIN DME SUPPLIERS.**

Section 1834(a)(16) of the Social Security Act (42 U.S.C. 1395m(a)(16)) is amended by adding at the end the following new sentence: "The requirement for a surety bond described in subparagraph (B) shall not apply in the case of a pharmacy or supplier that exclusively provides eyeglasses or contact lenses as described in section 1861(s)(8) that (i) is enrolled under section 1866(j) as a supplier of durable medical equipment, prosthetics, orthotics, and supplies and has been issued (which may include renewal of) a provider number (as described in the first sentence of this paragraph) for at least 5 years, and (ii) for which a final adverse action (as defined in section 424.57(a) of title 42, Code of Federal Regulations) has never been imposed."

**SA 2877.** Mr. BROWN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 869, between lines 14 and 15, insert the following:

**SEC. 3143. REIMBURSEMENT FOR TOTAL BODY ORTHOTIC MANAGEMENT FOR CERTAIN NURSING HOME PATIENTS.**

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act,

the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall issue product codes that qualified practitioners and suppliers may use to receive reimbursement under section 1834(h) of the Social Security Act (42 U.S.C. 1395m(h)) for qualified total body orthotic management devices used for the treatment of nonambulatory individuals with severe musculoskeletal conditions who are in the full-time care of skilled nursing facilities (as defined in section 1861(j) of such Act (42 U.S.C. 1395x(j))). In issuing such codes, the Secretary shall take all steps necessary to prevent fraud and abuse.

(b) **QUALIFIED TOTAL BODY ORTHOTIC MANAGEMENT DEVICE.**—For purposes of this section, the term "qualified total body orthotic management device" means a medically-prescribed device which—

(1) consists of custom fitted individual braces with adjustable points at the hips, knee, ankle, elbow, and wrist, but only if—

(A) the individually adjustable braces are attached to a frame which is an integral component of the device and cannot function or be used apart from the frame; and

(B) the frame is designed such that it serves no purpose without the braces; and

(2) is designed to—

(A) improve function;

(B) retard progression of musculoskeletal deformity; or

(C) restrict, eliminate, or assist in the functioning of lower and upper extremities and pelvic, spinal, and cervical regions of the body affected by injury, weakness, or deformity, of an individual for whom stabilization of affected areas of the body, or relief of pressure points, is required for medical reasons.

**SA 2878.** Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE \_\_\_\_\_ MINORITY HEALTH**

**SEC. \_\_\_\_\_ 01. OFFICE OF MINORITY HEALTH.**

(a) IN GENERAL.—Section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) is amended—

(1) in subsection (a), by striking "within the Office of Public Health and Science and all that follows through the end" and inserting ". The Office of Minority Health as existing on the date of enactment of the Patient Protection and Affordable Care Act shall be transferred to the Office of the Secretary in such manner that there is established in the Office of the Secretary, the Office of Minority Health, which shall be headed by the Deputy Assistant Secretary for Minority Health who shall report directly to the Secretary, and shall retain and maintain an Advisory Committee on Minority Health as provided for under subsection (c)." and

(2) by striking subsection (b) and inserting the following:

"(b) **DUTIES.**—With respect to improving the health of racial and ethnic minority groups, the Secretary, acting through the Deputy Assistant Secretary, shall carry out the following:

"(1) Establish, implement, monitor, and evaluate short-range and long-range goals

and objectives and oversee all other activities within the Public Health Service that relate to disease prevention, health promotion, service delivery, and research concerning minority groups. The heads of each of the agencies of the Service shall consult with the Deputy Assistant Secretary to ensure the coordination of such activities.

"(2) Oversee all activities within the Department of Health and Human Services that relate to reducing or eliminating disparities in health and health care in racial and ethnic minority populations and in rural and underserved communities, including coordinating—

"(A) the design of programs, support for programs, and the evaluation of programs;

"(B) the monitoring of trends in health and health care;

"(C) research efforts;

"(D) the training of health providers; and

"(E) information and education programs and campaigns.

"(3) Enter into interagency and intra-agency agreements with other agencies of the Public Health Service.

"(4) Ensure that the Federal health agencies and the National Center for Health Statistics collect data on the health status and health care of each minority group, using at a minimum the categories specified in the 1997 OMB Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as required under subtitle B and available language standards.

"(5) Provide technical assistance to States, local agencies, territories, Indian tribes, and entities for activities relating to the elimination of racial and ethnic disparities in health and health care.

"(6) Support a national minority health resource center to carry out the following:

"(A) Facilitate the exchange of information regarding matters relating to health information, health promotion and wellness, preventive health services, clinical trials, health information technology, and education in the appropriate use of health services.

"(B) Facilitate timely access to culturally and linguistically appropriate information.

"(C) Assist in the analysis of such information.

"(D) Provide technical assistance with respect to the exchange of such information (including facilitating the development of materials for such technical assistance).

"(7) Carry out programs to improve access to health care services for individuals with limited English proficiency.

"(8) Carry out programs to improve access to health care services and to improve the quality of health care services for individuals with low functional health literacy. As used in the preceding sentence, the term 'functional health literacy' means the ability to obtain, process, and understand basic health information and services needed to make appropriate health decisions.

"(9) Advise in matters related to the development, implementation, and evaluation of health professions education on decreasing disparities in health care outcomes, with focus on cultural competency as a method of eliminating disparities in health and health care in racial and ethnic minority populations.

"(10) Assist health care professionals, community and advocacy organizations, academic centers and public health departments in the design and implementation of programs that will improve the quality of health outcomes by strengthening the provider-patient relationship.

"(11) In carrying out this subsection—

"(A) award grants, contracts, enter into memoranda of understanding, cooperative,

interagency, intra-agency and other agreements with public and nonprofit private entities, agencies, as well as Departmental and Cabinet agencies and organizations; and

“(B) award grants, contracts, enter into memoranda of understanding, cooperative and other agreements with organizations that are indigenous human resource providers in communities of color to assure improved health status of racial and ethnic minorities.

“(12) Directly or through contracts with public and private entities, agencies, and nonprofit organizations, provide for evaluations of projects carried out with awards made the Office and for the dissemination of information developed as a result of such projects.”;

(3) by redesignating subsections (f) through (h) as subsections (g) through (i), respectively;

(4) by inserting after subsection (e) the following:

“(f) **PREPARATION OF HEALTH PROFESSIONALS TO PROVIDE HEALTH CARE TO MINORITY POPULATIONS.**—The Secretary, in collaboration with the Director of the Bureau of Health Professions and the Deputy Assistant Secretary for Minority Health, shall require that health professional schools that receive Federal funds train future health professionals to provide culturally and linguistically appropriate health care to diverse populations.”; and

(5) by striking subsection (i) (as so redesignated) and inserting the following:

“(i) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2011 through 2016.”.

(b) **TRANSFER OF FUNCTIONS.**—There are transferred to the Office of Minority Health in the office of the Secretary of Health and Human Services, the Deputy Assistant Secretary for Minority Health who shall report directly to the Secretary of Health and Human Services. All duties, responsibilities, accountabilities and functions exercised by the Deputy Assistant Secretary for Minority Health and by the Office of Minority Health of the Public Health Service prior to the date of enactment of this section shall transfer with the Office and the Deputy Assistant Secretary for Minority Health, including all personnel and compensation authority, all delegation and assignment authority, all committees including the Advisory Committee on Minority Health and other committees, entities and councils, and all remaining appropriations. All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions that—

(1) have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions transferred under this paragraph; and

(2) transfers with the Deputy Assistant Secretary for Minority Health are in effect at the time this section takes effect, or were final before the date of enactment of this section and are to become effective on or after such date, transfers with and to the Office of Minority Health within the Office of the Secretary and remain the authority, responsibility and accountability of the Office; shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, a court of competent jurisdiction, or by operation of law.

(c) **REPORTS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this section, and

every second year thereafter, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report describing the activities carried out under section 1707 of the Public Health Service Act (as amended by this section) during the period for which the report is being prepared.

(2) **AGENCY REPORTS.**—Not later than 1 year after the date of enactment of this section, and biennially thereafter, the heads of each of the agencies of the Public Health Service shall submit to the Deputy Assistant Secretary for Minority Health a report summarizing the minority health activities of each of the respective agencies.

**SEC. 02. ESTABLISHMENT OF INDIVIDUAL OFFICES OF MINORITY HEALTH WITHIN AGENCIES OF THE PUBLIC HEALTH SERVICE.**

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by inserting after section 1707 the following section:

**“SEC. 1707A. INDIVIDUAL OFFICES OF MINORITY HEALTH WITHIN PUBLIC HEALTH SERVICE.**

“(a) **IN GENERAL.**—The head of each agency specified in subsection (b)(1) shall establish within the agency an office to be known as the Office of Minority Health. The head of each such Office shall be appointed by the head of the agency within which the Office is established, and shall report directly to the head of the agency. The head of such agency shall carry out this section (as this section relates to the agency) acting through such Director.

“(b) **SPECIFIED AGENCIES.**—

“(1) **IN GENERAL.**—The agencies referred to in subsection (a) are the following:

“(A) The Centers for Disease Control and Prevention.

“(B) The Health Resources and Services Administration.

“(C) The Substance Abuse and Mental Health Services Administration.

“(D) The Agency for Healthcare Research and Quality.

“(E) The Food and Drug Administration.

“(c) **COMPOSITION.**—The head of each specified agency shall ensure that the officers and employees of the minority health office of the agency are, collectively, experienced in carrying out community-based health programs for each of the various racial and ethnic minority groups that are present in significant numbers in the United States.

“(d) **DUTIES.**—Each head of a minority health office shall establish and monitor the programs of the specified agency of such office in order to carry out the following:

“(1) Determine the extent to which the purposes of the programs are being carried out with respect to racial and ethnic minority groups;

“(2) Determine the extent to which members of such groups are represented among the Federal officers and employees who administer the programs; and

“(3) Make recommendations to the head of such agency on carrying out the programs with respect to such groups. In the case of programs that provide services, such recommendations shall include recommendations toward ensuring that—

“(A) the services are equitably delivered with respect to racial and ethnic minority groups; and

“(B) the programs provide the services in the language and cultural context that is most appropriate for the individuals for whom the services are intended.

“(e) **FUNDING.**—

“(1) **ALLOCATIONS.**—Of the amounts appropriated for a specified agency for a fiscal year, the Secretary must designate an appropriate amount of funds for the purpose of

carrying out activities under this section through the minority health office of the agency. In reserving an amount under the preceding sentence for a minority health office for a fiscal year, the Secretary shall reduce, by substantially the same percentage, the amount that otherwise would be available for each of the programs of the designated agency involved.

“(2) **AVAILABILITY OF FUNDS FOR STAFFING.**—The purposes for which amounts made available under paragraph may be expended by a minority health office include the costs of employing staff for such office.”.

**SEC. 03. OFFICE OF MINORITY HEALTH AT THE CENTERS FOR MEDICARE & MEDICAID SERVICES.**

(a) **IN GENERAL.**—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services shall establish within the Centers for Medicare & Medicaid Services an Office of Minority Health (referred to in this section as the “Office”).

(b) **DUTIES.**—The Office shall be responsible for the coordination and facilitation of activities of the Centers for Medicare & Medicaid Services to improve minority health and health care and to reduce racial and ethnic disparities in health and health care, which shall include—

(1) creating a strategic plan, which shall be made available for public review, to improve the health and health care of Medicare, Medicaid, and SCHIP beneficiaries;

(2) promoting agency-wide policies relating to health care delivery and financing that could have a beneficial impact on the health and health care of minority populations;

(3) assisting health plans, hospitals, and other health entities in providing culturally and linguistically appropriate health care services;

(4) increasing awareness and outreach activities for minority health care consumers and providers about the causes and remedies for health and health care disparities;

(5) developing grant programs and demonstration projects to identify, implement and evaluate innovative approaches to improving the health and health care of minority beneficiaries in the Medicare, Medicaid, and SCHIP programs;

(6) considering incentive programs relating to reimbursement that would reward health entities for providing quality health care for minority populations using established benchmarks for quality of care;

(7) collaborating with the compliance office to ensure compliance with the anti-discrimination provisions under title VI of the Civil Rights Act of 1964;

(8) identifying barriers to enrollment in public programs under the jurisdiction of the Centers for Medicare & Medicaid Services;

(9) monitoring and evaluating on a regular basis the success of minority health programs and initiatives;

(10) publishing an annual report about the activities of the Centers for Medicare & Medicaid Services relating to minority health improvement; and

(11) other activities determined appropriate by the Secretary of Health and Human Services.

(c) **STAFF.**—The staff at the Office shall include—

(1) one or more individuals with expertise in minority health and racial and ethnic health disparities; and

(2) one or more individuals with expertise in health care financing and delivery in underserved communities.

(d) **COORDINATION.**—In carrying out its duties under this section, the Office shall coordinate with—

(1) the Office of Minority Health in the Office of the Secretary of Health and Human Services;

(2) the National Institute for Minority Health and Health Disparities (as so redesignated by section 05) in the National Institutes of Health; and

(3) the Office of Minority Health in the Centers for Disease Control and Prevention.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated such sums may be necessary for each of fiscal years 2011 through 2016.

**SEC. 04. OFFICE OF MINORITY AFFAIRS AT THE FOOD AND DRUG ADMINISTRATION.**

Chapter X of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

**“SEC. 1011. OFFICE OF MINORITY AFFAIRS.**

“(a) **IN GENERAL.**—Not later than 60 days after the date of enactment of this section, the Secretary shall establish within the Office of the Commissioner of Food and Drugs an Office of Minority Affairs (referred to in this section as the ‘Office’).

“(b) **DUTIES.**—The Office shall be responsible for the coordination and facilitation of activities of the Food and Drug Administration to improve minority health and health care and to reduce racial and ethnic disparities in health and health care, which shall include—

“(1) promoting policies in the development and review of medical products that reduce racial and ethnic disparities in health and health care;

“(2) encouraging appropriate data collection, analysis, and dissemination of racial and ethnic differences using, at a minimum, the categories described in the 1997 Office of Management and Budget standards, in response to different therapies in both adult and pediatric populations;

“(3) providing, in coordination with other appropriate government agencies, education, training, and support to increase participation of minority patients and physicians in clinical trials;

“(4) collecting and analyzing data using, at a minimum, the categories described in the 1997 Office of Management and Budget standards, on the number of participants from minority racial and ethnic backgrounds in clinical trials used to support medical product approvals;

“(5) the identification of methods to reduce language and literacy barriers; and

“(6) publishing an annual report about the activities of the Food and Drug Administration pertaining to minority health.

“(c) **STAFF.**—The staff of the Office shall include—

“(1) one or more individuals with expertise in the design and conduct of clinical trials of drugs, biological products, and medical devices; and

“(2) one or more individuals with expertise in therapeutic classes or disease states for which medical evidence suggests a difference based on race or ethnicity.

“(d) **COORDINATION.**—In carrying out its duties under this section, the Office shall coordinate with—

“(1) the Office of Minority Health in the Office of the Secretary of Health and Human Services;

“(2) the National Institute for Minority Health and Health Disparities in the National Institutes of Health; and

“(3) the Office of Minority Health in the Centers for Disease Control and Prevention.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2011 through 2016.”.

**SEC. 05. NATIONAL INSTITUTE FOR MINORITY HEALTH AND HEALTH DISPARITIES.**

(a) **REDESIGNATION.**—

(1) **IN GENERAL.**—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(A) in section 401(b)(24), by striking “National Center on Minority Health and Health Disparities” and inserting “National Institute for Minority Health and Health Disparities”; and

(B) in subpart 6 of part E—

(i) in the subpart heading, by striking “Center” and inserting “Institute”; and

(ii) in the headings of sections 485E and 485H, by striking “CENTER” and inserting “INSTITUTE”; and

(iii) by striking (other than in section 485E(i)(1)) the term “Center” each place it appears and inserting “Institute”.

(2) **REFERENCES.**—Any reference in any law, map, regulation, document, paper, or other record of the United States to the National Center on Minority Health and Health Disparities shall be deemed to be a reference to the National Institute for Minority Health and Health Disparities.

(b) **DUTIES; AUTHORITIES; FUNDING.**—Section 485E of the Public Health Service Act (42 U.S.C. 287c–31) is amended—

(1) by amending subsection (e) to read as follows:

“(e) **DUTIES OF THE DIRECTOR.**—

“(1) **INTERAGENCY COORDINATION OF MINORITY HEALTH AND HEALTH DISPARITY ACTIVITIES.**—With respect to minority health and health disparities, the Director of the Institute shall plan, coordinate, and evaluate research and other activities conducted or supported by the institutes and centers of the National Institutes of Health. In carrying out the preceding sentence, the Director of the Institute shall evaluate the minority health and health disparity activities of each of such institutes and centers and shall provide for the periodic reevaluation of such activities. Such institutes and centers shall be responsible for providing information to the Institute, including data on clinical trials funded or conducted by these institutes and centers.

“(2) **CONSULTATIONS.**—The Director of the Institute shall carry out this subpart (including developing and revising the plan and budget required by subsection (f) in consultation with the heads of the institutes and centers of the National Institutes of Health, the advisory councils of such institutes and centers, and the advisory council established pursuant to subsection (j)).

“(3) **COORDINATION OF ACTIVITIES.**—The Director of the Institute—

“(A) shall act as the primary Federal official with responsibility for coordinating all research and activities conducted or supported by the National Institutes of Health on minority or other health disparities;

“(B) shall represent the health disparities research program of the National Institutes of Health, including the minority health and other health disparities research program, at all relevant executive branch task forces, committees, and planning activities; and

“(C) shall maintain communications with all relevant agencies of the Public Health Service, including the Indian Health Service, and various other departments and agencies of the Federal Government to ensure the timely transmission of information concerning advances in minority health disparities research and other health disparities research among these various agencies for dissemination to affected communities and health care providers.”;

(2) by amending subsection (f) to read as follows:

“(f) **STRATEGIC PLAN.**—

“(1) **IN GENERAL.**—Subject to the provisions of this section and other applicable law, the Director of the Institute, in consultation with the Director of NIH, the Directors of the other institutes and centers of the National Institutes of Health, and the advisory council established pursuant to subsection (j), shall—

“(A) annually review and revise a strategic plan (referred to in this section as ‘the plan’) and budget for the conduct and support of all minority health disparity research and other health disparity research activities of the institutes and centers of the National Institutes of Health that include time-based targeted objectives with measurable outcomes and assure that the annual review and revision of the plan uses an established trans-National Institutes of Health process subject to timely review, approval, and dissemination;

“(B) ensure that the plan and budget establish priorities among the health disparities research activities that such agencies are authorized to carry out;

“(C) ensure that the plan and budget establish objectives regarding such activities, describe the means for achieving the objectives, and designate the date by which the objectives are expected to be achieved;

“(D) ensure that all amounts appropriated for such activities are expended in accordance with the plan and budget;

“(E) annually submit to Congress a report on the progress made with respect to the plan; and

“(F) create and implement a plan for the systemic review of research activities supported by the National Institutes of Health that are within the mission of both the Institute and other institutes and centers of the National Institutes of Health, including by establishing mechanisms for—

“(i) tracking minority health and health disparity research conducted within the institutes and centers assessing the appropriateness of this research with regard to the overall goals and objectives of the plan;

“(ii) the early identification of applications and proposals for grants, contracts, and cooperative agreements supporting extramural training, research, and development, that are submitted to the institutes and centers that are within the mission of the Institute;

“(iii) providing the Institute with the written descriptions and scientific peer review results of such applications and proposals;

“(iv) enabling the institutes and centers to consult with the Director of the Institute prior to final approval of such applications and proposals; and

“(v) reporting to the Director of the Institute all such applications and proposals that are approved for funding by the institutes and centers.

“(2) **CERTAIN COMPONENTS OF PLAN AND BUDGET.**—With respect to health disparities research activities of the agencies of the National Institutes of Health, the Director of the Institute shall ensure that the plan and budget under paragraph (1) provide for—

“(A) basic research and applied research, including research and development with respect to products;

“(B) research that is conducted by the agencies;

“(C) research that is supported by the agencies;

“(D) proposals developed pursuant to solicitations by the agencies and for proposals developed independently of such solicitations; and

“(E) behavioral research and social sciences research, which may include cultural and linguistic research in each of the agencies.

“(3) MINORITY HEALTH DISPARITIES RESEARCH.—The plan and budget under paragraph (1) shall include a separate statement of the plan and budget for minority health disparities research.”;

(3) by amending subsection (h) to read as follows:

“(h) RESEARCH ENDOWMENTS.—

“(1) IN GENERAL.—The Director of the Institute shall carry out a program to facilitate minority health and health disparities research and other health disparities research by providing research endowments at—

“(A) centers of excellence under section 736; and

“(B) centers of excellence under section 485F.

“(2) ELIGIBILITY.—The Director of the Institute shall provide for a research endowment under paragraph (1) only if the institution involved meets the following conditions:

“(A) The institution does not have an endowment that is worth in excess of an amount equal to 50 percent of the national average of endowment funds at institutions that conduct similar biomedical research or training of health professionals.

“(B) The application of the institution under paragraph (1) regarding a research endowment has been recommended pursuant to technical and scientific peer review and has been approved by the advisory council established pursuant to subsection (j).

“(C) The institution at any time was deemed to be eligible to receive a grant under section 736 and at any time received a research endowment under paragraph (1).”; and

(4) by adding at the end the following:

“(k) FUNDING.—

“(1) FULL FUNDING BUDGET.—

“(A) IN GENERAL.—With respect to a fiscal year, the Director of the Institute shall prepare and submit directly to the President, for review and transmittal to Congress, a budget estimate for carrying out the plan for the fiscal year, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, the directors of the other institutes and centers of the National Institutes of Health, and the advisory council established pursuant to subsection (j). The budget estimate shall include an estimate of the number and type of personnel needs for the Institute.

“(B) AMOUNTS NECESSARY.—The budget estimate submitted under subparagraph (A) shall estimate the amounts necessary for the institutes and centers of the National Institutes of Health to carry out all minority health and health disparities activities determined by the Director of the Institute to be appropriate, without regard to the probability that such amounts will be appropriated.

“(2) ALTERNATE BUDGETS.—

“(A) IN GENERAL.—With respect to a fiscal year, the Director of the Institute shall prepare and submit to the Secretary and the Director of the National Institutes of Health the budget estimates described in subparagraph (B) for carrying out the plan for the fiscal year. The Secretary and such Director shall consider each of such estimates in making recommendations to the President regarding a budget for the plan for such year.

“(B) DESCRIPTION.—With respect to the fiscal year involved, the budget estimates referred to in subparagraph (A) for the plan are as follows:

“(i) The budget estimate submitted under paragraph (1).

“(ii) A budget estimate developed on the assumption that the amounts appropriated will be sufficient only for—

“(I) continuing the conduct by the institutes and centers of the National Institutes of Health of existing minority health and health disparity activities (if approved for continuation), and continuing the support of such activities by the institutes and centers in the case of projects or programs for which the institutes or centers have made a commitment of continued support; and

“(II) carrying out activities that are in addition to activities specified in subclause (I), only for which the Director determines there is the most substantial need.

“(iii) Such other budget estimates as the Director of the Institute determines to be appropriate.”.

**SA 2879.** Mr. CARDIN submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 974, between lines 9 and 10, insert the following:

**SEC. 3316. HHS STUDIES AND REPORTS ON MEDICAID BENEFICIARIES AND DUAL ELIGIBLE INDIVIDUALS RECEIVING CARE IN HOME AND COMMUNITY-BASED SETTINGS.**

(a) STUDY AND REPORT ON DUAL ELIGIBLES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall conduct a study and submit to Congress a report that—

(1) analyzes whether dual eligible individuals (as described under subsection (c)(1)) have income levels, prescription drug requirements, and types and levels of disability that are comparable to dual eligible individuals for whom cost-sharing is eliminated under section 1860D-14(a)(1)(D)(i) of the Social Security Act (42 U.S.C. 1395w-114(a)(1)(D)(i)), as amended by section 3309;

(2) determines whether dual eligible individuals have adequate access to prescription medication; and

(3) provides recommendations to address any deficiencies in regard to access to prescription drugs by dual eligible individuals, including an analysis regarding elimination of cost sharing for all such individuals under the prescription drug program under part D of title XVIII of the Social Security Act.

(b) STUDY AND REPORT ON SSI LOW-INCOME MEDICAID BENEFICIARIES.—Not later than 12 months after the date of enactment of this Act, the Secretary shall conduct a study and submit to Congress a report that—

(1) determines whether benefits provided to SSI Medicaid beneficiaries (as described under subsection (c)(2)) under the supplemental security income program are sufficient to cover expenses for room and board that are incurred by such beneficiaries;

(2) analyzes the process used for determining the amount of benefits provided to SSI Medicaid beneficiaries under the supplemental security income program, including whether such amounts—

(A) adequately reflect expenses for room and board that are incurred by such beneficiaries; and

(B) are sufficient to meet the needs of beneficiaries who are disabled; and

(3) identifies methods to provide additional support for SSI Medicaid beneficiaries in covering their expenses for room and board, including benefits provided under Housing and Urban Development programs and other

housing assistance programs, the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), and other methods as determined appropriate by the Secretary.

(c) DEFINITIONS.—In this section:

(1) DUAL ELIGIBLE INDIVIDUAL.—The term “dual eligible individual” means an individual who is—

(A) entitled to benefits under part A of title XVIII of the Social Security Act or enrolled for benefits under part B of such title;

(B) entitled to medical assistance under a State plan under title XIX of such Act;

(C) not an institutionalized individual or couple (as defined in section 1902(q)(1)(B) of such Act (42 U.S.C. 1396a(q)(1)(B))); and

(D) receiving home and community-based services under a State Medicaid plan (or a waiver of such plan) under title XIX of the Social Security Act.

(2) SSI MEDICAID BENEFICIARY.—The term “SSI Medicaid beneficiary” means an individual who—

(A) is eligible for medical assistance under a State plan or waiver under title XIX of the Social Security Act and is enrolled in such plan or waiver;

(B) receives benefits under the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); and

(C) receives home and community-based services (including such services provided in an assisted living facility).

(3) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on December 3, 2009, at 10 a.m.

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

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on December 3, 2009.

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

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on December 3, 2009, at 10 a.m., in Room SD-366 of the Dirksen Senate Office Building.

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

### COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on December 3, 2009, at 9 a.m., to hold a hearing entitled “Afghanistan: Assessing the Road Ahead.”



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

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on December 3, 2009, at 10 a.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate in Room 628 on December 3, 2009, at 2:15 p.m. of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 3, 2009, at 10 a.m., in Room SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 3, 2009, at 2:30 p.m.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on National Parks be authorized to meet during the session of the Senate to conduct a hearing on December 3, 2009, at 2:30 p.m., in Room SD-366 of the Dirksen Senate Office Building.

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

SUBCOMMITTEE ON WATER AND WILDLIFE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Water and Wildlife of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on December 3, 2009, at 2 p.m. in Room 406 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Stacey Sachs, a detailee in the Senate HELP Committee Majority Health Office, be granted the privileges of the floor for the duration of H.R. 3590, the Patient Protection and Affordable Care Act.

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

Mr. HATCH. Mr. President, I ask unanimous consent that my health pol-

icy fellow, Dr. Janet Phoenix, have floor privileges throughout the consideration of this debate on H.R. 3590.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXECUTIVE SESSION

PROTOCOL AMENDING TAX  
CONVENTION WITH FRANCE

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar No. 1, Treaty Document No. 111-4, Protocol Amending Tax Convention with France; that the treaty be considered as having advanced through the various parliamentary stages, up to and including the presentation of the resolution of ratification; that any committee understanding, declaration, or condition be agreed to as applicable; that any statements be printed in the RECORD; further, that when the vote on the resolution of ratification is taken, the motion to reconsider be considered made and laid upon the table, and the President be immediately notified of the Senate's action.

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

Mr. CASEY. Mr. President, I ask for a division vote on the resolution of ratification.

The PRESIDING OFFICER. A division vote has been requested. Senators in favor of the resolution of ratification will rise and stand until counted. Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification agreed to is as follows:

*Resolved, (two-third of the Senators present concurring therein),*

Section 1. Senate Advice and Consent subject to a declaration and a condition.

The senate advises and consents to the ratification of the Protocol Amending the convention between the Government of the United States of America and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Paris on August 31, 1994, as Amended by the Protocol signed on December 8, 2004, signed on January 13, 2009, at Paris, together with a related Memorandum of Understanding, signed January 13, 2009 (the "Protocol") (Treaty Doc. 111-4), subject to the declaration of section 2 and the condition of section 3.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

The Protocol is self-executing.

Section 3. Condition.

The advice and consent of the Senate under section 1 is subject to the following condition:

1. Not later than two years from the date on which this Protocol enters into force and prior to the first arbitration conducted pur-

suant to the binding arbitration mechanism provided for in this Protocol, the Secretary of Treasury shall transmit the text of the rules of procedure applicable to arbitration panels, including conflict of interest rules to be applied to members of the arbitration panel, to the committees on Finance and Foreign Relations of the Senate and the Joint Committee on Taxation.

2. Sixty days after a determination has been reached by an arbitration panel in the tenth arbitration proceeding conducted pursuant to this Protocol, the 2006 Protocol Amending the Convention between the United States of America and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and to Certain Other Taxes (the "2006 German Protocol") (Treaty Doc. 109-20), the Convention between the Government of the United States of America and the Government of the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and accompanying protocol (the "Belgium Convention") (Treaty Doc. 110-3), or the Protocol Amending the Convention between the United States of America and Canada with Respect to Taxes on Income and on Capital (the "2007 Canada Protocol") (Treaty Doc. 110-15), the Secretary of Treasury shall prepare and submit a detailed report to the Joint Committee on Taxation and the Committee on Finance of the Senate, subject to law relating to taxpayer confidentiality, regarding the operation and application of the arbitration mechanism contained in the aforementioned treaties. The report shall include the following information:

I. The aggregate number, for each treaty, of cases pending on the respective dates of entry into force of this Protocol, the 2006 German Protocol, the Belgium Convention, and the 2007 Canada Protocol, along with the following additional information regarding these cases:

- a. The number of such cases by treaty article(s) at issue;
- b. The number of such cases that have been resolved by the competent authorities through a mutual agreement as of the date of the report; and
- c. The number of such cases for which arbitration proceedings have commenced as of the date of the report.

II. A list of every case presented to the competent authorities after the entry into force of this Protocol, the 2006 German Protocol, the Belgium Convention, and the 2007 Canada Protocol, with the following information regarding each case:

- a. The commencement date of the case for purposes of determining when arbitration is available;
- b. Whether the adjustment triggering the case, if any, was made by the United States or the relevant treaty partner;
- c. Which treaty the case relates to;
- d. The treaty article(s) at issue in the case;
- e. The date the case was resolved by the competent authorities through a mutual agreement, if so resolved;
- f. The date on which an arbitration proceeding commenced, if an arbitration proceeding commenced; and
- g. The date on which a determination was reached by the arbitration panel, if a determination was reached, and an indication as to whether the panel found in favor of the United States or the relevant treaty partner.

III. With respect to each dispute submitted to arbitration and for which a determination was reached by the arbitration panel pursuant to this Protocol, the 2006 German Protocol, the Belgium Convention, and the 2007 Canada Protocol, the following information shall be included:

a. In the case of a dispute submitted under this Protocol, an indication as to whether the presenter of the case to the competent authority of a Contracting State submitted a Position Paper for consideration by the arbitration panel;

b. An indication as to whether the determination of the arbitration panel was accepted by each concerned person;

c. The amount of income, expense, or taxation at issue in the case as determined by reference to the filings that were sufficient to set the commencement date of the case for purposes of determining when arbitration is available; and

d. The proposed resolutions (income, expense, or taxation) submitted by each competent authority to the arbitration panel.

3. The Secretary of Treasury shall, in addition, prepare and submit the detailed report described in paragraph (2) on March 1 of the year following the year in which the first report is submitted to the Joint Committee on Taxation and the Committee on Finance of the Senate, and on an annual basis thereafter for a period of five years. In each such report, disputes that were resolved, either by a mutual agreement between the relevant competent authorities or by a determination of an arbitration panel, and noted as such in prior reports may be omitted.

4. The reporting requirements referred to in paragraphs (2) and (3) supersede the reporting requirements contained in paragraphs (2) and (3) of Section 3 of the 2 resolution of advice and consent to the 2007 Canada Protocol, approved by the Senate on September 23, 2008.

#### EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate consider en bloc Executive Calendar Nos. 550, 555, 559, 562, 565 to and including 577, and all nominations on the Secretary's desk in the Air Force, Army, and Navy; that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action, and the Senate resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

##### DEPARTMENT OF LABOR

David Morris Michaels, of Maryland, to be an Assistant Secretary of Labor.

##### EXECUTIVE OFFICE OF THE PRESIDENT

Victoria Angelica Espinel, of the District of Columbia, to be Intellectual Property Enforcement Coordinator, Executive Office of the President.

##### UNITED STATES POSTAL SERVICE

Alan C. Kessler, of Pennsylvania, to be a Governor of the United States Postal Service for a term expiring December 8, 2015.

##### SELECTIVE SERVICE SYSTEM

Lawrence G. Romo, of Texas, to be Director of the Selective Service.

##### IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### To be lieutenant general

Maj. Gen. Kurt A. Cichowski

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### To be lieutenant general

Maj. Gen. Janet C. Wolfenbarger

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 12203 and 12212:

##### To be brigadier general

Col. Frank J. Sullivan

##### IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### To be lieutenant general

Maj. Gen. Guy C. Swan, III

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### To be lieutenant general

Brig. Gen. William N. Phillips

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### To be lieutenant general

Maj. Gen. Richard P. Formica

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### To be lieutenant general

Maj. Gen. Michael L. Oates

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

##### To be major general

Brig. Gen. Charles J. Barr

##### IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

##### To be rear admiral (lower half)

Capt. Sean R. Filipowski

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### To be vice admiral

Rear Adm. John T. Blake

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### To be vice admiral

Vice Adm. Bernard J. McCullough, III

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### To be vice admiral

Rear Adm. Michael A. LeFever

The following named officer for appointment in the United States Navy to the grade

indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

##### To be vice admiral

Rear Adm. William R. Burke

##### NOMINATIONS PLACED ON THE SECRETARY'S DESK

##### IN THE AIR FORCE

PN982 AIR FORCE nominations (34) beginning JEFFREY K. ATKISSON, and ending ROGER L. WILLIS JR., which nominations were received by the Senate and appeared in the Congressional Record of September 21, 2009.

PN983 AIR FORCE nominations (1201) beginning CHRISTOPHER C. ABATE, and ending CHRISTOPHER J. ZUHLKE, which nominations were received by the Senate and appeared in the Congressional Record of September 21, 2009.

PN1190 AIR FORCE nomination of Elisha T. Powell IV, which was received by the Senate and appeared in the Congressional Record of November 17, 2009.

##### IN THE ARMY

PN1113 ARMY nomination of James C. Lewis, which was received by the Senate and appeared in the Congressional Record of October 22, 2009.

PN1122 ARMY nominations (4) beginning ANULI L. ANYACHEBELU, and ending JOHN M. STANG, which nominations were received by the Senate and appeared in the Congressional Record of October 28, 2009.

PN1123 ARMY nominations (7) beginning ANTHONY C. BOSTICK, and ending JOSEPH G. WILLIAMSON, which nominations were received by the Senate and appeared in the Congressional Record of October 28, 2009.

PN1124 ARMY nominations (21) beginning RISA D. BATOR, and ending THOMAS R. YARBER, which nominations were received by the Senate and appeared in the Congressional Record of October 28, 2009.

PN1125 ARMY nominations (37) beginning JAMES R. ANDREWS, and ending SHANDA M. ZUGNER, which nominations were received by the Senate and appeared in the Congressional Record of October 28, 2009.

PN1147 ARMY nomination of Edwin S. Fuller, which was received by the Senate and appeared in the Congressional Record of November 4, 2009.

PN1148 ARMY nomination of Robert J. Schultz, which was received by the Senate and appeared in the Congressional Record of November 4, 2009.

PN1149 ARMY nominations (2) beginning CLEMENT D. KETCHUM, and ending JOHN LOPEZ, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 2009.

PN1150 ARMY nominations (4) beginning CAREY L. MITCHELL, and ending MELISSA F. TUCKER, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 2009.

PN1151 ARMY nominations (10) beginning CRAIG R. BOTTONI, and ending AKASH S. TAGGARSE, which nominations were received by the Senate and appeared in the Congressional Record of November 4, 2009.

PN1169 ARMY nomination of Leon L. Robert, which was received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1170 ARMY nomination of Michael C. Metcalf, which was received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1171 ARMY nominations (2) beginning TODD E. FARMER, and ending STEVEN R. WATT, which nominations were received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1172 ARMY nominations (12) beginning MARK D. CROWLEY, and ending MICHAEL

J. STEVENSON, which nominations were received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1173 ARMY nominations (141) beginning NATHANAEL L. ALLEN, and ending X001320, which nominations were received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1174 ARMY nominations (155) beginning SCOTT C. ARMSTRONG, and ending D004309, which nominations were received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1175 ARMY nominations (212) beginning MICHAEL W. ANASTASIA, and ending D003756, which nominations were received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1191 ARMY nomination of Scott E. McNeil, which was received by the Senate and appeared in the Congressional Record of November 17, 2009.

PN1192 ARMY nomination of Scott E. Zipprich, which was received by the Senate and appeared in the Congressional Record of November 17, 2009.

PN1193 ARMY nomination of Mary B. McQuary, which was received by the Senate and appeared in the Congressional Record of November 17, 2009.

PN1194 ARMY nominations (3) beginning MARVIN R. MANIBUSAN, and ending FRANCISCO J. NEUMAN, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2009.

PN1195 ARMY nominations (4) beginning PATRICK S. CALLENDER, and ending STEVEN L. SHUGART, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2009.

PN1196 ARMY nominations (14) beginning MICHAEL A. BENNETT, and ending KEVIN M. WALKER, which nominations were received by the Senate and appeared in the Congressional Record of November 17, 2009.

#### IN THE NAVY

PN1114 NAVY nominations (2) beginning TIMOTHY M. SHERRY, and ending ROBERT N. MILLS, which nominations were received by the Senate and appeared in the Congressional Record of October 22, 2009.

PN1176 NAVY nomination of Matthew P. Luff, which was received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1177 NAVY nomination of Everett F. Magann, which was received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1178 NAVY nomination of William V. Dolan, which was received by the Senate and appeared in the Congressional Record of November 16, 2009.

PN1179 NAVY nominations (48) beginning BRIAN D. BARTH, and ending STACY M. WUTHIER, which nominations were received by the Senate and appeared in the Congressional Record of November 16, 2009.

#### NOMINATION OF VICTORIA ESPINEL

Mr. LEAHY. Mr. President, I am pleased that the Senate today confirmed Victoria Espinel as the Nation's first intellectual property enforcement coordinator. This position was created by legislation that I introduced last year and is vital to protect the intellectual property interests of United States innovators and companies. Intellectual property rights promote innovation and creativity, and the protection of those rights is critical during this time of economic uncertainty.

Ms. Espinel is extremely well qualified to serve as the President's intel-

lectual property enforcement coordinator. She has an extensive background in intellectual property issues, both foreign and domestic, and has experience in government and in the private sector. Ms. Espinel served in the Bush administration as the Assistant United States Trade Representative for Intellectual Property and Innovation. This is a nomination that deserves bipartisan support. American innovation and our intellectual property protection should not be a partisan issue.

The legislation by which we created this position took a comprehensive approach to intellectual property protection by providing Federal, State, and local law enforcement with the tools and resources they need to combat intellectual property theft. The legislation created an interagency advisory committee to develop a more efficient and cohesive approach to protecting American intellectual property. I am confident that Ms. Espinel will work well with that committee.

I look forward to working with Ms. Espinel to improve the efficiency and effectiveness of our intellectual property enforcement efforts. I know her family, and was delighted to chair her confirmation hearing. I congratulate her on her Senate confirmation.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

#### NATIONAL MINERS DAY

Mr. CASEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 337 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 337) designating December 6, 2009, as "National Miners Day."

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

Mr. CASEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 337) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 337

Whereas the foundations of civilization are constructed from, advanced by, and sustained with, the materials procured with the sweat and blood of miners;

Whereas the miners of the United States have labored long and hard over our Nation's existence to make it the economically

strong, militarily secure Nation that it is today;

Whereas miners and their families have achieved, provided, and sacrificed so much for the betterment of their fellow Americans;

Whereas miners have struggled, in their lives and in their work, to obtain health and safety protections;

Whereas the terrible mining tragedy at Monongah, West Virginia, that occurred on December 6, 1907, is recognized for causing the greatest loss of lives in American industrial history, and this tragedy helped to launch the national effort to secure the safety and health of our miners that continues to this day; and

Whereas miners still today risk life and limb in their labors: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates December 6, 2009, as "National Miners Day", in appreciation, honor, and remembrance of the accomplishments and sacrifices of the miners of the Nation; and

(2) encourages the people of the United States to participate in local and national activities celebrating and honoring the contributions of miners.

#### PERMITTING COLLECTIONS FOR CHARITABLE PURPOSES

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 369, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 369) to permit the collection of clothing, toys, food, and housewares during the holiday season for charitable purposes in Senate buildings.

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

Mr. CASEY. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 369) was agreed to, as follows:

#### S. RES. 369

*Resolved*,

#### SECTION 1. COLLECTION OF CLOTHING, TOYS, FOOD, AND HOUSEWARES DURING THE HOLIDAY SEASON FOR CHARITABLE PURPOSES IN SENATE BUILDINGS.

(a) IN GENERAL.—Notwithstanding any other provision of the rules or regulations of the Senate—

(1) a Senator, officer, or employee of the Senate may collect from another Senator, officer, or employee of the Senate within Senate buildings nonmonetary donations of clothing, toys, food, and housewares for charitable purposes related to serving those in need or members of the Armed Services and their families during the holiday season, if such purposes do not otherwise violate any rule or regulation of the Senate or of Federal law; and

(2) a Senator, officer, or employee of the Senate may work with a nonprofit organization with respect to the delivery of donations described in paragraph (1).

(b) EXPIRATION.—The authority provided by this resolution shall expire at the end of the 1st session of the 111th Congress.

## ORDERS FOR FRIDAY, DECEMBER 4, 2009

Mr. CASEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Friday, December 4; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 3590, the health care reform legislation, as provided for under the previous order.

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

## PROGRAM

Mr. CASEY. Mr. President, we currently have one amendment and one motion to commit pending to the bill. Senators should expect rollcall votes throughout the day tomorrow.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CASEY. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order.

There being no objection, the Senate, at 8:32 p.m., adjourned until Friday, December 4, 2009, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

## DEPARTMENT OF ENERGY

DONALD L. COOK, OF WASHINGTON, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS, NATIONAL NUCLEAR SECURITY ADMINISTRATION, VICE ROBERT L. SMOLEN, RESIGNED.

## DEPARTMENT OF DEFENSE

MALCOLM ROSS O'NEILL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE CLAUDE M. BOLTON, JR.

JACKALYNE PFANNENSTIEL, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE BUDDIE J. PENN.

DOUGLAS B. WILSON, OF ARIZONA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE DORRANCE SMITH.

## DEPARTMENT OF STATE

BROOKE D. ANDERSON, OF CALIFORNIA, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

BROOKE D. ANDERSON, OF CALIFORNIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS, DURING HER TENURE OF SERVICE AS ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS.

ROSEMARY ANNE DICARLO, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER—COUNSELOR, TO BE THE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS.

ROSEMARY ANNE DICARLO, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER—COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS, DURING HER TENURE OF SERVICE AS DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

## THE JUDICIARY

NANCY D. FREUDENTHAL, OF WYOMING, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF WYOMING, VICE CLARENCE A. BRIMMER, JR., RETIRED.

DENZIL PRICE MARSHALL, JR., OF ARKANSAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN

DISTRICT OF ARKANSAS, VICE WILLIAM ROY WILSON, JR., RETIRED.

BENITA Y. PEARSON, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO, VICE PETER C. ECONOMUS, RETIRED.

## CONFIRMATIONS

Executive nominations confirmed by the Senate, Thursday, December 3, 2009:

## DEPARTMENT OF LABOR

DAVID MORRIS MICHAELS, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR.

## UNITED STATES POSTAL SERVICE

ALAN C. KESSLER, OF PENNSYLVANIA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2015.

## SELECTIVE SERVICE SYSTEM

LAWRENCE G. ROMO, OF TEXAS, TO BE DIRECTOR OF THE SELECTIVE SERVICE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

## EXECUTIVE OFFICE OF THE PRESIDENT

VICTORIA ANGELICA ESPINEL, OF THE DISTRICT OF COLUMBIA, TO BE INTELLECTUAL PROPERTY ENFORCEMENT COORDINATOR, EXECUTIVE OFFICE OF THE PRESIDENT.

## IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. KURT A. CICHOWSKI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JANET C. WOLFENBARGER

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be brigadier general*

COL. FRANK J. SULLIVAN

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. GUY C. SWAN III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

BRIG. GEN. WILLIAM N. PHILLIPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. RICHARD P. FORMICA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. MICHAEL L. OATES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. CHARLES J. BARR

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

CAPT. SEAN R. FILIPOWSKI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED

WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. JOHN T. BLAKE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

VICE ADM. BERNARD J. MCCULLOUGH III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. MICHAEL A. LEFEVER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. WILLIAM R. BURKE

## IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH JEFFREY K. ATKISSON AND ENDING WITH ROGER L. WILLIS, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH CHRISTOPHER C. ABATE AND ENDING WITH CHRISTOPHER J. ZUHLKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2009.

AIR FORCE NOMINATION OF ELISHA T. POWELL IV, TO BE COLONEL.

## IN THE ARMY

ARMY NOMINATION OF JAMES C. LEWIS, TO BE MAJOR. ARMY NOMINATIONS BEGINNING WITH ANULI L. ANYACHEBELU AND ENDING WITH JOHN M. STANG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 28, 2009.

ARMY NOMINATIONS BEGINNING WITH ANTHONY C. BOSTICK AND ENDING WITH JOSEPH G. WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 28, 2009.

ARMY NOMINATIONS BEGINNING WITH RISA D. BATOR AND ENDING WITH THOMAS R. YARBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 28, 2009.

ARMY NOMINATIONS BEGINNING WITH JAMES R. ANDREWS AND ENDING WITH SHANDA M. ZUGNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 28, 2009.

ARMY NOMINATION OF EDWIN S. FULLER, TO BE MAJOR.

ARMY NOMINATION OF ROBERT J. SCHULTZ, TO BE LIEUTENANT COLONEL.

ARMY NOMINATIONS BEGINNING WITH CLEMENT D. KETCHUM AND ENDING WITH JOHN LOPEZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 4, 2009.

ARMY NOMINATIONS BEGINNING WITH CAREY L. MITCHELL AND ENDING WITH MELISSA F. TUCKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 4, 2009.

ARMY NOMINATIONS BEGINNING WITH CRAIG R. BOTTONI AND ENDING WITH AKASH S. TAGGARSE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 4, 2009.

ARMY NOMINATION OF LEON L. ROBERT, TO BE COLONEL.

ARMY NOMINATION OF MICHAEL C. METCALF, TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH TODD E. FARMER AND ENDING WITH STEVEN R. WATT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 16, 2009.

ARMY NOMINATIONS BEGINNING WITH MARK D. CROWLEY AND ENDING WITH MICHAEL J. STEVENSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 16, 2009.

ARMY NOMINATIONS BEGINNING WITH NATHANIEL L. ALLEN AND ENDING WITH X001320, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 16, 2009.

ARMY NOMINATIONS BEGINNING WITH SCOTT C. ARMSTRONG AND ENDING WITH D004309, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 16, 2009.

ARMY NOMINATIONS BEGINNING WITH MICHAEL W. ANASTASIA AND ENDING WITH D003756, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 16, 2009.

ARMY NOMINATION OF SCOTT E. MCNEIL, TO BE COLONEL.

ARMY NOMINATION OF SCOTT E. ZIPPRICH, TO BE COLONEL.

ARMY NOMINATION OF MARY B. MCQUARY, TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH MARVIN R. MANIBUSAN AND ENDING WITH FRANCISCO J. NEUMAN,

WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2009.

ARMY NOMINATIONS BEGINNING WITH PATRICK S. CALLENDER AND ENDING WITH STEVEN L. SHUGART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2009.

ARMY NOMINATIONS BEGINNING WITH MICHAEL A. BENNETT AND ENDING WITH KEVIN M. WALKER, WHICH

NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 17, 2009.

#### IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH TIMOTHY M. SHERRY AND ENDING WITH ROBERT N. MILLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 22, 2009.

NAVY NOMINATION OF MATTHEW P. LUFF, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF EVERETT F. MAGANN, TO BE CAPTAIN.

NAVY NOMINATION OF WILLIAM V. DOLAN, TO BE CAPTAIN.

NAVY NOMINATIONS BEGINNING WITH BRIAN D. BARTH AND ENDING WITH STACY M. WUTHIER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 16, 2009.

# EXTENSIONS OF REMARKS

## REDUNDANCY ELIMINATION AND ENHANCED PERFORMANCE FOR PREPAREDNESS GRANTS ACT

SPEECH OF

**HON. SHEILA JACKSON-LEE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, December 2, 2009*

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise before you today in support of H.R. 3980, the "Redundancy Elimination and Enhanced Performance for Preparedness Grants Act". I would like to thank my friend and colleague, Representative CUELLAR, for introducing this act of solidarity, as well as the cosponsor, Representative RICHARDSON.

Congress instructed FEMA in the Post-Katrina Emergency Management Reform Act of 2006 and in the Implementing Recommendations of the 9/11 Commission Act of 2007 to develop performance metrics for its homeland security grants programs. As the House Committee on Homeland Security discovered in our October 27th subcommittee hearing for the Emergency Communications, Preparedness and Response Subcommittee, these requirements remain poorly implemented and difficult to comprehend.

What is most disconcerting is that FEMA still cannot determine our Nation's overall preparedness or how homeland security grants have helped to protect our Nation from acts of terrorism.

It is for these reasons that I come to you today to ask for your support of H.R. 3980, the Redundancy Elimination and Enhanced Performance for Preparedness Grants Act.

This legislation would require FEMA to work in conjunction with state, local, tribal and territorial stakeholders to develop a plan to: Streamline homeland security grant reporting requirements, rules and regulations to eliminate redundant reporting; create a strategy including a set timeline for establishing the much needed performance metrics for grant programs to ensure that the funds are being directed to the areas where they will be best spent; and require FEMA to take inventory of each homeland security grant program to include the purpose, objectives and performance goals for each.

The plan will be submitted to the Committee on Homeland Security no later than 120 days after the bill's enactment. It will be updated bi-annually to ensure that the Committee is able to maintain a watchful eye on redundancies in the law that might confuse grant recipients. Finally, this bill will help identify inefficiencies with the DHS grant programs and this bill will increase the quality of services received by DHS grant recipients.

It is for these reasons that I rise in support of Representative CUELLAR's legislation before us, and why I encourage my fellow Members to do the same.

## RECOGNIZING THE EXEMPLARY SERVICE OF THE 30TH INFANTRY DIVISION DURING WORLD WAR II

SPEECH OF

**HON. BOB ETHERIDGE**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, December 2, 2009*

Mr. ETHERIDGE. Madam Speaker, I rise in strong support of H. Res. 494 as a cosponsor of this important resolution. It honors the 30th Infantry Division of World War II, which included National Guard soldiers from my state of North Carolina, as well as troops from Tennessee. The long history of the 30th Infantry goes back further, though, to include the service of individuals from across the South. Each time they were called to duty, they answered the call with distinction and bravery.

Their service during World War II was particularly exemplary, and I appreciate my colleague Congressman KISSELL, whose father served in this division, for bringing forward a resolution to honor their valiant work. The achievements of the 30th Infantry Division were so exemplary that military historians of the day singled it out for distinction as the first among infantry divisions, noting both "outstanding" battle service and efficiency that preserved the lives of its members. Eisenhower's chief historian, S.L.A. Marshall, called the 30th the "most efficient fighting division in Europe."

Although the 30th Infantry Division was not involved in the actual invasion of Normandy, it engaged in a pivotal battle in Mortain, France that contributed to the Allied victory at Normandy. Serving with bravery and distinction at St. Lo, France, the 30th enabled the Allies to outflank the German Army in what came to be called the St. Lo Breakout. The 30th was also instrumental in breaching the Siegfried Line in October 1944, and the capture of Aachen, Germany. In short, the 30th Division, Old Hickory, played a significant part in our eventual victory over the Axis in WWII.

Today, North Carolina's National Guard soldiers serve with honor in Iraq and Afghanistan, bravely doing their part in defense of our Nation. As they do so, they are part of a valiant heritage that goes back to the founding of our Nation. Each time they are called to service, they do North Carolina and our Nation proud, as they are doing today.

North Carolinians are proud of the service and history of the 30th Infantry Division. We thank soldiers for safeguarding freedom and our way of life, in World War II and today in Afghanistan and Iraq. These courageous soldiers accomplished feats of heroism and bravery which preserved a way of life on two continents. They represent a proud fighting tradition and have earned every accolade we can give.

As a cosponsor of H. Res. 494, I strongly support this legislation, and I urge my colleagues to join me in honoring the soldiers that have and continue to protect our freedom.

## HONORING SAMUEL BRADLEY

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Samuel Bradley, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 75, and in earning the most prestigious award of Eagle Scout.

Samuel has been very active with his troop participating in many scout activities. Over the many years Samuel has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Samuel Bradley for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## HONORING BARRY BAUER

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Barry Bauer upon being awarded the "Distinguished Citizen Award" by the Sequoia Council, Boy Scouts of America. Mr. Bauer will be honored on Tuesday, November 10, 2009 at the annual Distinguished Citizen Dinner in Fresno, California.

Mr. Barry Bauer was born and raised in Fresno, California and attended Fresno High School. As a child, Mr. Bauer helped at his father's liquor and sporting goods store. He was a busy child, involved in Cub Scouts and Boy Scouts. During his scouting career he had accumulated enough merit badges to become a Star Scout and worked his way to becoming a Life Scout.

Mr. Bauer graduated from California State University, Fresno with a bachelor's of science degree in Electrical Engineering in 1968. During college, he worked evenings at Bank of America, taught data processing classes at Fresno City College and during the summer recess he worked as a programmer for IBM at various accounts around the Central Valley. During his senior year in college Mr. Bauer joined the Air National Guard unit in Fresno. He held various positions, including Base Comptroller and Combat Support Commander. He retired as a Lieutenant Colonel after 23 years of service.

Upon graduation, Mr. Bauer was offered a position with IBM, working from the Fresno and Bay Area offices. He retired after 25 years of service with IBM. Mr. Bauer has always been very active in a multitude of activities; he

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



has a commercial pilot license, a real estate broker license, a lifetime junior college teaching credential and a ham radio license. Since 1998, he has served as President of the family business, Herb Bauer Sporting Goods.

Mr. Bauer is currently a member of the Fresno County Recreation and Wildlife Commission that reports to supervisor Debbie Poochigian. He has been active consultant to legislators regarding firearm issues, and has served as the chairman of the Fresno Friends of the NRA for 10 years. With this position, he has approved over \$20,000 in grants to improve the shooting range at Chawanawkee. He also provides a discount to all scouts purchasing scouting related products at his store.

In his spare time, Mr. Bauer and his wife of 40 years, Rosemarie, enjoy traveling around the world.

Madam Speaker, I rise today to commend and congratulate Barry Bauer upon being awarded the "Distinguished Citizen Award." I invite my colleagues to join me in wishing Mr. Bauer many years of continued success.

CONGRESSIONAL RECOGNITION  
FOR THE ARIZONA BUILDERS'  
ALLIANCE 15TH ANNUAL VOLUNTEER DAY

**HON. GABRIELLE GIFFORDS**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Ms. GIFFORDS. Madam Speaker, I rise today to recognize the Arizona Builders' Alliance which is celebrating its fifteenth annual Volunteer Day this week by renovating the Marshall Home for Men in Tucson.

More than 150 volunteers from the Southern Arizona Division of the Alliance will participate in the December 5 event. Thanks to the generosity of Alliance members, \$125,000 worth of renovations will be donated to the Marshall Home.

The Marshall Home for Men was founded in 1931 as a safe haven for men who were struggling to find work during the Depression. A rancher, John Ryland, welcomed the men with food, shelter and companionship as they sought jobs during the tough economic times. The support that the current residents will receive from the Builders' Alliance continues that caring tradition.

Today, the Marshall Home is a non-profit, state licensed personal care facility for elderly men with limited means. Fifty-two men—many of whom have earned military commendations such as the Silver Star, Bronze Star, Navy Cross and Purple Heart—live at the Marshall Home.

Thanks to the Arizona Builders' Alliance, the Marshall Home will receive new doors, bathroom upgrades, painting, air conditioning and ductwork, new locks, tile replacement, an irrigation system and extensive landscaping work.

This is the fifteenth time that the Southern Arizona Division of the Arizona Builders' Alliance has come to the aid of a community service organization. Previous events have contributed more than \$1.2 million worth of work.

I am proud to join with a grateful community in commending the Arizona Builders' Alliance for their long history of giving. This is a great

organization whose members are the backbone of our southern Arizona economy and whose charitable works have made significant contributions to non-profit agencies and the people they serve.

SATELLITE HOME VIEWER  
REAUTHORIZATION ACT OF 2009

SPEECH OF

**HON. ADRIAN SMITH**

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, December 2, 2009*

Mr. SMITH of Nebraska. Madam Speaker, I rise today to oppose suspending the rules to pass H.R. 3570, the Satellite Home Viewer Update and Reauthorization Act.

I understand this legislation must be reauthorized by December 31 to ensure satellite television viewers have continued access to local stations. In many rural areas—including large portions of my district—satellite television carriage of local stations is one of the only sources for up-to-the-minute news and weather. It is vital we maintain that link.

I am pleased this legislation addresses two issues of concern to my constituents. It includes language allowing satellite carriers to provide in-state public television signals to all viewers in the state, regardless of television market, DMA. This means the thirteen counties in my district served by the Denver DMA will have improved access to the quality programming of NET—Nebraska's statewide PBS station.

The bill also takes steps to encourage satellite carriers to carry all 210 DMAs. Currently, 31 DMAs, including the city of North Platte in my district, are not carried by either of the two major satellite carriers and another 76 are carried by only one of the two. These unserved and underserved markets are typically small, rural areas and are often in the greatest need of satellite carriage for distant viewers to receive their signals. I am pleased the bill takes steps to encourage their coverage rather than implementing strong new mandates on these private companies.

However, I must oppose passage of this legislation under suspension of the rules. It does not contain language to address the needs of consumers in out-of-state DMAs who wish to receive in-state broadcast programming over satellite. Under suspension of the rules, no member will have the opportunity to offer an amendment to address this issue.

Under this legislation the thirteen counties which would gain access to Nebraska public television would still be forced to watch local broadcast programming from the Denver DMA. This includes places such as Sheridan and Cherry Counties which are over 400 miles from Denver and have three closer and arguably more local markets unavailable to them on satellite—North Platte, Scottsbluff-Cheyenne, and even Rapid City, South Dakota.

With this in mind, I must oppose suspending the rules to pass this legislation today in hope that this bill can be brought back up under a rule with the opportunity to make these needed changes for my constituents.

HONORING GARRETT JONES

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Garrett Jones, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 1360, and in earning the most prestigious award of Eagle Scout.

Garrett has been very active with his troop participating in many scout activities. Over the many years Garrett has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Garrett Jones for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

IN HONOR OF VALENTINO W.  
NARDO, SR.

**HON. MICHAEL N. CASTLE**

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. CASTLE. Madam Speaker, it is with great pleasure that I rise today to pay tribute to Valentino W. Nardo, Sr. Mr. Nardo is a fellow Delawarean who has dedicated his life to serving his community in the truest sense of the word.

A man of great compassion, Val is known across Delaware as a champion of the less-fortunate. His organization, Val's Needy Family Fund, began as a food drive which he ran out of his Newark-based barbershop. In 1969, Val's Needy Family Fund was able to provide 10 baskets of holiday meals. The project has grown exponentially over the past 40 years, distributing as many as 1,500 baskets at a time. Each year, Val and his volunteers help prepare and deliver the food baskets, answering calls for emergency aid from churches, social services and organizations.

Val has always been a supporter of the non-profit Newark Area Welfare Committee, and Val's Needy Family Fund is now formally affiliated with this long-time community organization that stocks food cupboards and provides other avenues of assistance for those in need. The collaboration has allowed Val's Fund to reach more of the people who are most in need and will ensure that Val's dedication to the less-fortunate continues well beyond his lifetime. In 2008, Val was awarded a Jefferson Award for public service. The Jefferson Awards are given annually to honor individuals who make a difference in the community in which they work and live. The bestowal of this award is particularly salient for Val, as recipients of Jefferson Awards are nominated by the public. Val's peers and I firmly agree that he is a shining example of how one person truly can make a difference. And his dedication to the community shows no sign of stopping; each year, he does not sit down to Christmas dinner until all of the holiday food has been distributed. At 90, Val possesses a

commitment and a desire to help others that is not just admirable, but contagious. Indeed, the food drive that was once run out of his shop has grown today to need a warehouse.

In addition to being a committed community member, Val is a loving husband and devoted father. He and his wife, Mary, recently celebrated their 69th wedding anniversary, and Val's family members share in his mission of giving, enabling Val's Needy Family Fund to be a year-round effort. With his dedication to the hungry and less-fortunate, Val has done and continues to do our great state of Delaware an immeasurable service.

On the occasion of the 40th anniversary of Val's Needy Family Fund, I would like to recognize the unequalled devotion of Valentino W. Nardo, Sr. Val has given his time, his energy, and his heart in support of Delawareans. His influence and contributions have reached far and wide, affecting all of our communities. I commend Mr. Nardo for his tireless dedication and look forward to his continued success in serving those in need.

**CONGRATULATING EAGLE SCOUT  
BRADLEY GARR FOR RECEIVING  
THE SILVER HORNADAY MEDAL**

**HON. HARRY E. MITCHELL**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. MITCHELL. Madam Speaker, I rise today to congratulate Bradley Garr, a young Eagle Scout from my district, for his inspiring and conscientious efforts to protect Arizona's fragile Sonoran Desert.

Bradley, an 8th grader at Copper Ridge Middle School in Scottsdale, recently developed and led a day-long conservation effort to remove and relocate cacti and other delicate desert plants along a major power line corridor. The plants would otherwise be destroyed to provide maintenance access to the lines.

Bradley first built a partnership between the Boy Scouts, the McDowell Sonoran Conservancy, Arizona Public Service and the City of Scottsdale. He then led a team of more than 50 volunteers to complete the work. This was Bradley's fourth major conservation project completed as part of his Eagle Scout responsibilities. In addition, Bradley is also a past winner of the Boy Scouts Medal of Heroism for helping his father, Bill Garr, pull a woman from a wrecked and burning vehicle two years ago.

For his outstanding conservation and environmental efforts, the Boy Scouts of America have nominated Bradley for the prestigious Silver Hornaday Medal. Madam Speaker, please join me in congratulating Bradley on these outstanding accomplishments and in wishing him well in his future endeavors.

**HONORING THE KEARNEY HIGH  
SCHOOL FOOTBALL TEAM**

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GRAVES. Madam Speaker, I proudly rise to congratulate Coach Greg Jones and

the Kearney High School football team for winning the Missouri Class 4 state championship. The Bulldogs, led by seniors Tyler Funk, Stephen Juergens, Joe Windsor and many others, displayed the work ethic, teamwork, and sportsmanship of true champions during their 27–15 victory Friday afternoon.

After two disappointing early season defeats, this team pulled together and let their true colors show by winning their final 10 games and a state title. A state championship not only reflects the outcome of one final game but also the hard work and dedication these young men have shown over several years. I join the entire Kearney community in expressing how very proud we are of the success the players and coaches of the Kearney football team have attained.

Madam Speaker, I respectfully request you join with me in commending the Kearney Bulldogs on their state championship.

**A TRIBUTE TO OREGON CATTLE-  
MEN'S ASSOCIATION PRESIDENT  
BILL MOORE**

**HON. GREG WALDEN**

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. WALDEN. Madam Speaker, I rise today to share with you and my colleagues the story of Bill Moore and his life-long efforts in support of agriculture and the western ranching industry. Bill is the president of the Oregon Cattlemen's Association, OCA, and a tremendous friend to rural America. At the end of this week, Bill will turn over his gavel to another to lead this fine organization but he will continue his leadership in the field of agriculture. Before he relinquishes his current role, I would like to pay tribute to his leadership over the last several years.

A long list of organizations have recognized Bill's enduring support and promotion of the agriculture community's continued viability. Prior to serving as OCA president, Bill served as president of the Malheur County Cattlemen's Association. In his current role as leader for family ranchers throughout Oregon, he serves on the National Cattlemen's Beef Association board of directors. He was honored by the Ontario Oregon Chamber of Commerce in 2000 as the Agriculturalist of the Year. He has served on the local Farmer's Supply Cooperative board of directors, the Burnt River Irrigation District's board of directors and, in what is surely one of the most difficult positions anyone can have, as a member of the Burnt River School District budget board.

During his tenure as OCA president, Bill promoted and protected the interests of the cattle ranchers of Oregon. He initiated a new "Positive Producer Image Project," which utilizes a combination of traditional media and DVD production to showcase the valuable impacts ranchers have on Oregon's economy, wildlife, clean water, open space, and cultural heritage. This is the first ever video created by OCA, and it has received national accolades and become the blueprint for other states to follow as they also embark on positive producer image projects.

Born in Ontario, Oregon to William and Christine Moore, Bill has a rich history in eastern Oregon. Bill grew up with his five brothers

and sisters on a small family ranch near Vale, Oregon. After high school, Bill graduated with honors from Oregon State University with a bachelor of science degree in wildlife management in 1977. He worked for the Oregon Department of Fish and Wildlife for 5 years during and after college. In 1978 Bill married Nancy Ingle and that same year they began their own cattle herd with the purchase of eight cows. They leased land and began to grow their business. During the growth years, Bill worked for Arco Seed Company eventually becoming vice president in charge of seed production. Bill later owned his own seed distribution company.

In 1999, Bill and Nancy purchased a ranch near Unity, Oregon where they now center their ranching operation. It is truly a family operation where they have very little hired or outside help and rely on the American tradition of neighbor-helping-neighbor and family-helping-family to grow their business. Bill and Nancy have two children and three grandchildren which they treasure. Bill and Nancy take great pride and joy seeing yet another generation value and learn the ranching business and lifestyle that has meant so much to them.

Madam Speaker, I ask my colleagues to join me in saluting Bill Moore, who has served so ably as president of the Oregon Cattlemen's Association.

**ENHANCED S.E.C. ENFORCEMENT  
AUTHORITY ACT**

SPEECH OF

**HON. SHEILA JACKSON-LEE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, December 2, 2009*

Ms. JACKSON-LEE of Texas. Madam Speaker, I stand here today in support of H.R. 2873, the Enhanced S.E.C. Enforcement Authority Act, which will give the Securities and Exchange Commission, SEC, nationwide service of process. I support this legislation because I believe that it is important that the agency responsible for oversight of our financial system have the necessary tools for legal action against potential violations of the law.

I would like to first thank my colleague, Congressman JOHN CAMPBELL, for introducing this valuable piece of legislation. On December 11, 2008, nearly one year ago, Bernard Madoff was arrested for securities fraud, money laundering, and perjury in one of the largest Ponzi schemes in the history of this country. Estimates of the magnitude of the Madoff scheme were between \$50 and \$65 billion. The presiding judge in the case declared the crimes, "extraordinary evil." Congress and the American people were appalled by this scandal. The country wondered how our regulatory agencies could fail to recognize fraud of this magnitude for so long.

In the year since the Madoff scandal first came to light, both the Securities and Exchange Commission and Congress have worked to enhance the ability of the SEC to conduct oversight. Internal procedures have been reformed to make it easier for the SEC to open investigations into violations of securities law. New personnel at the SEC, such as the Director of Enforcement, have been hired to ensure that oversight efforts were carried out with the appropriate level of enthusiasm.

Congress has also worked to improve the tools of the SEC to conduct oversight. This bill is in line with the effort to reform the oversight of securities and ensure that massive fraud that was committed on the scale of Bernard Madoff never happens again.

Currently, the Securities and Exchange Commission has to issue subpoenas in the judicial district where the trial takes place or within a "100-mile bulge" of the courthouse. This unnecessarily burdens the staff, which has to travel to the courts where the trial takes place, wasting both time and money. Furthermore, by requiring the SEC to seek action in remote district courts, civil cases may be weakened. Witnesses in cases filed by the SEC are frequently located outside of the trial court's subpoena range. Because witnesses who are not able to travel would have to provide an alternative to live testimony, such as a videotaped deposition or written testimony, the impact of their statement is lost. Additionally, securities violations using the internet involve persons across jurisdictions.

H.R. 2873 will streamline the SEC's ability to investigate potential cases of violations of securities law. This bill will allow nationwide service of subpoenas in civil actions brought by the SEC in Federal courts. By granting the SEC this authority, this legislation will eliminate repetitive depositions. While the Congressional Budget Office has not scored this legislation, logically, this legislation will reduce costs for the SEC. The costs of creating and presenting videotaped depositions will be reduced. Additionally, SEC staff will no longer have to travel to file motions in remote district courts, saving the staff time and the taxpayer money.

Other agencies with similar mandates have long had the authority for nationwide service. This body has already considered and passed this provision: during the 110th Congress, the House of Representatives passed a law of this nature in Section 19 of H.R. 6513, the Securities Act of 2008. Furthermore, the SEC already has this authority in administrative proceedings.

#### HONORING THE MOUND CITY HIGH SCHOOL FOOTBALL TEAM

##### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GRAVES. Madam Speaker, I proudly rise to recognize the outstanding achievement of the Mound City Panthers High School football team in defeating St. Joseph Christian, by a score of 50-8, to claim victory in this year's Show-Me Bowl.

Once again, the Panthers were able to be crowned champions this season through hard work and tireless effort. This is the second straight year that the Panthers have beaten the Lions in the 8-man title game. These young men have worked tirelessly for years on sharpening the skills needed to achieve the success they most definitely deserve. I join with the community of Mound City in expressing how proud we are of the team under the leadership of Coach Brian Messer and his coaching staff. I wish them the very best and look forward to continued success in the future.

Madam Speaker, I respectfully request you to join me in congratulating the Mound City High School football team on their state championship.

#### TRIBUTE TO DR. JOHN BRADHAM COMMEMORATING HIS RETIREMENT FROM SCRA

##### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. WILSON of South Carolina. Madam Speaker, today I rise in recognition of the extraordinary efforts of Dr. John Bradham, a life-long patriot and public servant to the citizens of South Carolina and the United States. Born and raised in Sumter, John's unyielding desire to learn and succeed led him to the University of South Carolina for his undergraduate studies and to Texas A&M for multiple advanced degrees. John has a rich history of putting others' needs before his own with the utmost honesty and integrity. He served 24 years in the United States Air Force where he filled numerous leadership roles including command of Air Force Command, Control, Communications, and Computer, C4, programs, as well as environmental research on aircraft systems, radar, and various energy communications systems. John's contributions and service to his country have gone above and beyond the call of duty, evident by the fact that he retired from the Air Force as a full colonel before joining the South Carolina Research Authority, SCRA.

I have had the pleasure of working with John during his tenure at SCRA on a variety of high-level programs that have benefited South Carolinians, our warfighters, and the United States' national security. As the Senior Vice President at SCRA and head of the Institute for Solutions Generation, ISG, John has been an impetus for ingenuity and a driving force for upholding the highest standards of professionalism.

Dr. Bradham's technical knowledge has been crucial in SCRA programs and other projects for pushing the limits of technology and expanding the capabilities of our manufacturing sector to increase America's defense readiness.

I commend Dr. John Bradham for his outstanding service to the United States and for embodying the ideals and morals of what we hold a true American to be. His dedication to his family, friends, and colleagues is unmistakable and seen through the respect and honor he has earned and so righteously deserves. I wish John the best of luck in his future endeavors including his decision to teach and share his technical expertise with the youth of South Carolina. May God bless John, his wife Becky, their two children, and five grandchildren.

#### HONORING JOHN J. RUFÉ

##### HON. PATRICK J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Speaker, I rise today to honor John J. Rufe of Bucks County, Pennsylvania.

Serving his community as a presiding judge in the Bucks County Court of Common Pleas for twenty years, John J. Rufe has embodied what it means to be a public servant.

He has been responsible for authoring several landmark decisions on open space preservation zoning and has presided over the county's asbestos liability litigation for over a decade. In addition, John has been recognized by many for his attentive and considerate mediation in the complex and difficult field of child custody litigation.

John has also served as the President of the Bucks County Bar Association. He has been a contributor to Continuing Legal Education panels and has been a valuable resource for many beginning lawyers by offering constructive comment and guidance.

Madam Speaker, I am proud to recognize the Honorable John J. Rufe for his outstanding commitment to public service, his community and his country. I am extremely honored to serve as his Congressman.

#### PROTECT RELIGIOUS MINORITIES IN IRAQ

##### HON. GARY C. PETERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. PETERS. Madam Speaker, today I am introducing a resolution designed to raise awareness and express support for Iraqi religious minorities. The war in Iraq and the subsequent ethnic and sectarian violence has created a massive humanitarian crisis, and led to the displacement of millions of people. Iraqi religious minorities are particularly vulnerable, and are often specifically targeted in gruesome and random acts of violence, such as murder, rape, and abductions.

Many who have escaped Iraq to seek refuge in neighboring countries are forced to live in poverty, unable to legally work and lacking sufficient support from their host government. Those who remain in Iraq live a life of constant fear. They are forced into hiding and are vulnerable to emotional and physical attacks. Iraqi religious minorities lack the resources and sturdy community foundation necessary to defend themselves, and thus remain underrepresented politically, legally, and economically. Muslims and non-Muslims alike are exposed to such attacks, but the smaller religious sects remain more vulnerable, including Chaldeans, Syriacs, Assyrians, and other Christians, Sabeen Mandeans, and Yazidis. Catholic Christians have witnessed the killing of Archbishop Paulos Faraj Rahho and the ancient Iraqi Jewish community has seen itself diminish to a population of only ten members.

This resolution calls upon the combined efforts of the United States Government and United Nations to ask the Iraqi Government to protect religious minorities by encouraging free and fair elections, training Iraqi security forces and providing safe places to worship. It also seeks an investigation into human rights violations, and calls for an end to the abuse of Iraqi religious minorities. Finally, the resolution calls for United States to work with the Iraqi government to ensure the physical and economic safety of those wishing to return to Iraq.

It is no longer possible to stand by and watch as millions of religious minorities are

subjected to torture, abuse, and discrimination, which is why I ask my colleagues to support this important resolution.

**HONORING THE SAVANNAH HIGH SCHOOL GIRLS' GOLF TEAM**

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GRAVES. Madam Speaker, I proudly rise to congratulate Coach Tammy Steinkamp and the Savannah High School girls' golf team on their victory in the Missouri class 1 state championship. After a long, hard season these young women showed their true character by bringing home the state title.

A championship is not only a reflection of the final tournament of the year but also the hard work and dedication required in getting to that point. These young women have worked tirelessly for years on sharpening the skills needed to achieve the success they most definitely deserve. I join the community of Savannah in expressing how proud we are of this team and their incredible accomplishments. I wish them the very best and look forward to more success in the future.

Madam Speaker, I respectfully request you join with me in commending the Savannah High School girls' golf team on their state championship.

**MILITARY FAMILY MONTH**

SPEECH OF

**HON. SHEILA JACKSON-LEE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, December 2, 2009*

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today in support of H. Res. 861, which supports the goals and ideals of National Military Family Month. The fact that our star-spangled banner yet wave is a testament to the courage and honor of our military which is reason enough to thank the men and women of our military for the safety we have here in America; equally important are the loved ones they leave behind each tour, who support them and help keep them going day in and out.

In 1996, the Armed Services YMCA expanded Military Family Week, which usually occurred around Thanksgiving, into Military Family Month. Just like the week grew into a month long celebration in appreciation, so to have military families grown in number. "When I came in the service back in the Dark Ages, most of the troops were single. Everybody was single," said retired Navy Rear Adm. Frank Gallo, director of the Armed Services YMCA. Now, he added, 65 percent to 70 percent of service members are married, many with children. Families are a big part of the military, and the health of those families is also a big part of the readiness of the military, he said.

Military Family Month puts a little extra focus on supporting the families who support the men and women of our military. This has especially been true since the beginning of the conflicts in Afghanistan and Iraq as more of our soldiers are deployed.

The men and women of our military, through trial and tribulation, carry on; which they do in the name of many things, namely freedom, justice, democracy as well as in the name of their family and loved ones. The support necessary to keep a person going in such an atrocious environment is unfathomable, yet their families too, carry on. In my home district, the 18th District of Texas, we currently have, according to the Department of Defense, approximately 400 men and women in the military. With President Obama's planned deployment of 30,000 more troops to Afghanistan, there is bound to be more families left without sons, daughters, brothers, sisters, mothers and fathers here at home. National Military Family Month will help provide encouragement to military families who in turn support our military men and women.

Military families, through their sacrifices and their dedication to the United States and its values, represent the bedrock upon which the United States was founded and upon which the country continues to rely in these perilous and challenging times. The month of November, which includes the Veterans Day holiday, is an appropriate month to observe National Military Family Month, which recognizes the sacrifices and dedication of military families and their contributions to the United States. H. Res. 861 will also encourage the people of the United States to observe National Military Family Month with appropriate ceremonies and activities.

**HONORING EDDIE ROBERT STEFFNE**

**HON. DALE E. KILDEE**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. KILDEE. Madam Speaker, I rise today to pay tribute to Eddie Robert Steffne as he is honored by the Grand Lodge of Free and Accepted Masons of Michigan. A dinner will be held in his honor on Sunday, December 6th in Mt. Morris, Michigan.

A lifelong resident of Genesee County, Michigan, Eddie Steffne served in the U.S. military after attending Beecher High School. He received his honorable discharge in 1957 returning to the Flint area and attended Flint Community College. He became a master mechanic and worked for Sears and Roebuck, Midas Muffler, Draper Chevrolet, Summerfield Chevrolet, Hunter Engineering and Applegate Chevrolet.

Eddie joined the Montrose Masonic Lodge No. 428 in 1976. He served as Worshipful Master in 1982 and 2006. Also in 1982 he was appointed District Deputy Instructor then in 1992 he was appointed Regional Grand Lecturer. The Grand Lodge of Free and Accepted Masons of Michigan elected him Right Worshipful Grand Lecturer.

Active in the community, Eddie has supported the Shriner's Children Hospitals, the Old Newsboys of Flint, the city of Flint Police Mounted Patrol and Canine Unit, and he is a 32nd degree Scottish Rite Mason and supports their charities. Eddie and his late wife, Ruth Ann, had 4 children: Eddie Ray, Gregory, Shannon and Todd. Eddie Ray passed away in 1978.

Madam Speaker, I ask the House of Representatives to join me in congratulating Eddie

Robert Steffne as he gathers with his family, Masons from throughout Michigan, friends, and his special friend Cynthia Allard, to celebrate his work and contributions to Masonry and the Flint area. I wish him the best for years to come.

**HONORING THE MARYVILLE HIGH SCHOOL FOOTBALL TEAM**

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GRAVES. Madam Speaker, I proudly rise to congratulate Coach Chris Holt and the Maryville High School football team for winning the Missouri Class 2 state championship. After a hard fought season, the Spoofhounds finished the year with an impressive 35-0 victory in the state final and a 14-1 record.

Not only should these young men be proud of the enormity of their accomplishment but also the manner in which it was achieved. Throughout the season the Maryville football team played with heart, class and great sportsmanship. I join the entire Maryville community in congratulating the players and coaches on their many successes throughout the season and look forward to the seasons to come.

Madam Speaker, I respectfully request you join with me in commending the Maryville Spoofhounds on their state championship.

**125TH ANNIVERSARY OF THE CENTRAL UNION MISSION**

**HON. ROBERT B. ADERHOLT**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. ADERHOLT. Madam Speaker, I would like to bring the House's attention to an important milestone taking place in the District of Columbia. The Central Union Mission, the longest serving social service organization in the District, is celebrating its 125th anniversary of helping transform the lives of the least, the lost, and the last in Washington.

Beginning in 1884, the Central Union Mission, a highly effective faith-based nonprofit, has provided a compassionate helping hand to literally thousands of the District's homeless and addicted men, women and children. For some veterans of the Civil War who returned to Washington down and out, they turned to the Mission for assistance and the Mission faithfully provided it. During the Great Depression, the Mission was the nexus of the City for many who were jobless and penniless. Veterans of two world wars enlisted the Mission to help them fight battles of addiction and homelessness.

Just a short drive from this magnificent Capitol building, the Mission has been in operation continuously throughout 24 presidential administrations. The Mission has changed from what we would think of as a traditional homeless shelter providing food, clothing, and a safe place to sleep for the night, to a sophisticated transitional facility. The Mission provides emergency services to the homeless, life skills and job training, education and computer programs, group and individual therapy, clinical

services, community work and outreach, and physical, emotional and spiritual renewal. Through a variety of programs, the Mission provides services to not just the homeless, but to the addicted, at-risk youth, gang members, and criminal offenders. The Mission accomplishes this important work with the strong support of and partnerships with foundations, associations, businesses, churches, other social services, and local governments in the District, in Virginia and Maryland.

The Mission's work to the poor never seems to end. In fact, the problems of homelessness, addiction and other related problems continue to increase. The demand for programs offered by the Central Union Mission is more vital now than ever because of the severe economic crisis which hits hardest those who are most vulnerable.

Today, in Washington, D.C., there are more than 12,000 men, women, and children who are living in shelters, transitional housing, or on the streets.

Madam Speaker, the Central Union Mission is on the front lines working to meet the needs of those who are in need of its services. Last year alone, the Central Union Mission provided 152,275 meals to the hungry, more than 50,000 men with shelter through residential programs, and 4,408 individuals received counseling, medical, and legal assistance. Nearly 1,000 individuals were given the tools for a self-sufficient life through long-term addictions counseling and literacy programs.

The impact doesn't stop there. Families with children are the fastest growing segment of the homeless population. This past year, the Mission provided nearly 5,000 families with clothing, food, and household goods; more than 3,000 children were given backpacks, supplies for school, and gifts around Christmas time; and hundreds of impoverished urban children were treated to a real summer camp experience at the Mission's Camp Bennett location in Maryland.

The demand for services provided by the Central Union Mission continues to grow. The Central Union Mission is regularly forced to turn away people who are hungry, hurting, and in need of vital services because of regularly operating to capacity. As we enter the winter months, the Mission becomes an even more critical safety net for thousands of individuals and families who seek out the warmth and shelter it provides.

The assistance the Central Union Mission has provided since 1884 is best told through the stories those whose lives have been transformed. One such person, "Timothy," says about the Mission:

For nine years I had been struggling with drug and alcohol addiction. Going in and out of jails and institutions, wandering, hopelessly waiting for my life to end or a miracle to happen. At some point, I decided I didn't want to live anymore. My wife and children had been gone from my life, and my life was in shambles. I decided, during a deep depression, that I was going to take my own life. Then, the miracle happened.

I walked to the Central Union Mission, which was only 4 blocks away. When I arrived I was embraced by men who were concerned for me. I came into their STP program with barely any hope. But several days into it, I started to feel better. I realized that I have certain responsibilities, and that life is really what you make it. Somehow, I made it through the Mission's program and my life has really turned around.

Today, my wife and children know me, they're proud to say they have a changed husband and daddy. My relationship with my family has been restored, my sanity has been given back, and I look forward to a better future. All thanks to the Central Union Mission.

"Reginald" had a similar experience:

I entered Central Union Mission depressed, tired of life, and sick. I needed help.

I was at the Mission for almost two weeks, which allowed me time to recuperate, think, and spend time with other men who were just like me, when my mind began to clear. I started to focus on the important things in my life—my faith, family and getting better.

The Mission is just what it says it is—a mission, a place that's there for the people who are in need, and so they can get better. Just watching all these people bring in donated things to help people they don't even know amazed me. Watching men and women who have very little, like me, enjoy working on the food depot, seniors day, birthday celebrations, back to school, and things like that, makes it seem more like a family here. Basically, they really care. It helps me to realize how important I really am.

I thank God for David Treadwell and his staff. They are wonderful at what they do for people in need. The time they put into helping us is from the heart and that's what God wants from all of us—the best of what's in our hearts.

Madam Speaker, I hope the House will join me in congratulating the Central Union Mission and expressing our gratitude for the vital work the Mission is doing here in Washington, D.C. I encourage all Members to visit the Mission, which is just a short drive from this chamber to witness first-hand the power of compassionate service that has helped the Mission transform so many thousands of lives of the least, the last, and the lost for 125 years.

#### SATELLITE HOME VIEWER REAUTHORIZATION ACT OF 2009

SPEECH OF

**HON. ANNA G. ESHOO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, December 2, 2009*

Ms. ESHOO. Madam Speaker, I rise in support of H.R. 3570, the Satellite Home Viewer Update and Reauthorization Act of 2009. This bill provides much-needed improvements to the current legal structure governing the transmission of satellite signals to American consumers. We've come a long way since the days where satellite companies were fledgling businesses with small customer bases and large backyard dishes. Now this industry is robust and competitive and holds its own in the world of multi-video providers.

With this increased popularity comes an increased responsibility to those who subscribe to satellite services. I sponsored an amendment to the bill that was adopted in the Energy and Commerce Committee which underscores the importance of the rights of satellite customers.

My language will finally end DISH Network's discrimination against noncommercial High Definition signals. Many of you know these noncommercial stations as educational and Public Broadcast Stations. DISH has roughly 14 million subscribers and they all deserve ac-

cess to Public Television's signals. DISH had been providing preferential treatment to high-paying networks for the transmission of programming, but denying equal carriage for a television service supported by tax dollars. DISH gets privileges under this bill and with those privileges comes the obligation to serve the public interest.

The premise of my language is simple.

It requires satellite carriers to provide their customers with local noncommercial HDTV transmissions when carrying other local broadcast HD signals.

It provides for carriage compliance for 50 percent of the stations by the end of 2010, with an extra year for the remainder, thus accelerating the FCC 2013 date.

It ensures that when new service is initiated, noncommercial stations get equal treatment.

And, it gives carriers one last opportunity to sign a carriage contract because anyone who has one, has a safe harbor from the language here.

Most importantly, this language locks the door and rips off the knob—it not only accelerates the carriage date, it precludes potential waivers of that date extending well into the future.

It's important to note that Direct TV offers HD channels of 106 local public television stations in their local markets. DISH is carrying HD in local commercial broadcasts in 152 markets covering 93 percent of U.S. households. But they only carry local public television HD broadcasts in Alaska and Hawaii—where they are legally obligated to do so.

Consumers in all states have the right to view publicly funded programming. My preference would have been that some time during the past three years of negotiations with PBS, DISH would have decided to serve the public interest and provide equal treatment for noncommercial stations. Unfortunately, that didn't happen. There's been adequate notice of a serious problem, but no action. I encourage DISH to continue negotiating with PBS to reach a viable compromise on this issue before this measure passes the Senate as well. Otherwise, there will be no additional flexibility—and DISH will be legally obligated to carry those HD signals.

Thank you, Madam Speaker. I look forward to final passage of the Satellite bill, and especially the anti-discriminatory section which is part of it.

#### HONORING THE PENNEY HIGH SCHOOL GIRLS' CROSS COUNTRY TEAM

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GRAVES. Madam Speaker, I proudly rise to congratulate the Penney High School girls' cross country team for winning their sixth Missouri Class 1 state championship in a row. Runners Erin Esry, Makayla Moon, Lindsey Vollmer, Bethany Jakopic, Brooke Flook, Saige Dilley, and Kathleen Clevenger along with managers Ashley Cramer, Olivia Allen and Coach Mark Vollmer all deserve many congratulations for their enormous success. Over the years, Coach Vollmer and his runners have displayed the hard work, determination, and class that is indicative of six-time champions.

Winning a state championship is not only a reflection of the results of a race but also the character of its competitors. Every member of this team can walk with her head held high knowing that she has achieved what very few could. I join the entire community of Hamilton in congratulating these young women and their coach on their achievements and look forward to more success to come.

Madam Speaker, I respectfully request you join with me in commending the Penney High School girls' cross country team on their sixth straight state championship.

**TEMPORARY FORBEARANCE FOR  
FAMILIES AFFECTED BY CON-  
TAMINATED DRYWALL**

SPEECH OF

**HON. SHEILA JACKSON-LEE**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, December 2, 2009*

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise before you today in support of House Concurrent Resolution 197, "Encouraging banks and mortgage servicers to work with families affected by contaminated drywall to allow temporary forbearance without penalty on payments on their home mortgages". I would like to thank my colleague, Rep. GLENN NYE, for introducing this act of solidarity, as well as the co-sponsors.

Contaminated drywall affects thousands of Americans—since January 2009, over 1,300 cases of this structural condition have been reported from 26 States and the District of Columbia. When in 2006, more than 495 million pounds of drywall was imported into the United States from China, my home city of Houston was one of the major recipients.

Earlier this year, America's Watchdog, a national advocacy group for consumer protection, confirmed defective drywall in homes in Michigan, Virginia, Georgia, Mississippi, Alabama, Louisiana, Texas, Maryland, North and South Carolina, New York and New Jersey, with an estimated 10,000 homes in Florida and more than 100,000 nationwide affected. At least a dozen companies manufactured defective drywall in China and about 100 builders in Florida used the product, dating back to 2004.

Noxious gases released from contaminated drywall can cause serious health effects involving the upper respiratory tract, such as bloody noses, rashes, sore throats, and burning eyes; and toxins released from contaminated drywall can corrode metals inside the home, such as air conditioning coils and electrical wiring.

The dangers and health risks posed by contaminated drywall have forced thousands of families out of their homes and into temporary living situations, and many such families are unable to afford an additional financial burden. Because of this, some Americans who pay their mortgages on time are now suffering from both financial problems and health complications through no fault of their own.

Banks and mortgage servicers can help families affected by this scourge by providing temporary forbearance with respect to their

mortgage payments to help such families afford the costs of an additional residence while they are removed from their primary homes. That is why I join this body in encouraging banks and mortgage servicers to work with families affected by contaminated drywall to allow temporary forbearance without penalty on payments on their home mortgages.

IN TRIBUTE TO ROBERT O. HUBER

**HON. ELTON GALLEGLY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GALLEGLY. Madam Speaker, I rise in tribute to Robert O. "Bob" Huber, who was recently awarded the Ben E. Nordman 2009 Public Services Award by the Ventura County Bar Association in recognition of his many years of community service.

This award recognizes outstanding community contributions by a Ventura County, California, attorney through charitable and public services activities. One would be hard-pressed to find someone more deserving of the award than Bob.

I have known, and been friends with, Bob for more than 30 years. We served together on the Simi Valley City Council in the early 1980s and he was one of my first and most fervent supporters when I decided to run for Congress.

Bob became an attorney after 13 years as a mortician. He runs his own law office in partnership with Russ Takasugi and has served as a Judge Pro Tem since 1981. In 2004, he returned to elective office as a Ventura County Community College District trustee. He currently serves as board president.

As examples of his leadership, Bob initiated the first Affordable Housing Committee in the state of California while serving on the Simi Valley City Council. As a College District trustee, he prompted the board to launch an emergency response system to protect students at the district's three campuses after the Virginia Tech massacre. The district was the first college or university system in California to launch an emergency program and earned the district a special commendation from the State Chancellor's office.

Throughout the years, Bob has also served on a number of governmental boards and commissions. He also became active in the private sector starting at an early age. For instance, he was 27 years old the first time he served as president of the Simi Valley Chamber of Commerce. In addition, he has also headed his Rotary Club, the Simi Valley Boy Scout District, the Southeast Ventura County YMCA and the Administrative board of the United Methodist Church of Simi Valley. He was a founding steering committee board member for Leadership Simi Valley, the Simi Valley Education Foundation and the Simi Valley Community Foundation.

He has also provided pro bono legal work for the Simi Valley Chamber of Commerce, the United Methodist Church, the Presbyterian Church, the Rotary Club, the Boys & Girls Club, the Free Clinic of Simi Valley, the Simi Valley Community Foundation and the Simi Valley Cultural Arts Foundation.

There is more but, in short, Bob Huber is very deserving of this honor.

Madam Speaker, I know my colleagues will join me in congratulating Robert O. "Bob" Huber for earning the Ben E. Nordman 2009 Public Services Award and in thanking him for his many decades of service to his community.

IN HONOR OF GEORGE L.  
CATRAMBONE

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. PALLONE. Madam Speaker, I rise today to honor George L. Catrambone and his decades of service to the children of the Long Branch Public Schools. Mr. Catrambone is known as an innovator in the field of education and he has tirelessly worked to improve the quality of instruction for thousands of students. He recently announced his retirement after over 37 years of dedicated service.

Mr. Catrambone began his career at the Elberon Elementary School where he first worked as a teacher for the handicapped. He became the school's senior special education teacher before rising to the position of Coordinator of Special Education for the entire Long Branch School District. Mr. Catrambone rose to the position of Assistant Superintendent of Schools in 2002. In this position, Mr. Catrambone was a key force behind the implementation of the education policies of New Jersey's Governor and Commissioner of Education.

Mr. Catrambone has played a vital role in the implementation of the Whole School Reform initiative. He has helped to implement the initiative's curriculum advancements, including the provision of a full school day for preschool age children. He was also instrumental in the design and construction of new schools, athletic facilities, and playgrounds for use by the children of the Long Branch Public Schools.

As a member of several professional organizations, Mr. Catrambone has contributed a great deal to New Jersey's community of educators. The Association for Supervision and Curriculum Development, the Association for Children with Learning Disabilities, the New Jersey Education Association, and the Principal and Supervisors Association are included among the many different organizations of which Mr. Catrambone is a valued member.

Mr. Catrambone has been the recipient of several honors during his distinguished career. He has been awarded the Rotary Club of Long Branch's prestigious Paul Harris Fellow Award and he has been presented with the Long Branch Board of Education's Achievement resolution for his work with handicapped youth. Mr. Catrambone has also been honored for the work he has done on behalf of the Special Olympics.

Madam Speaker, I sincerely hope that my colleagues will join me in celebrating Mr. Catrambone's remarkable career. His impressive record of resilient achievement serves as a model for educators across the State of New Jersey.



HONORING THE PENNEY HIGH  
SCHOOL FOOTBALL TEAM**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GRAVES. Madam Speaker, I proudly rise to recognize the outstanding achievement of the Penney High School Hornets football team in defeating Valle Catholic, by a score of 21–17, to claim victory in this year's Class 1 Show-Me Bowl at the Edward Jones Dome.

A championship is not only reflective of the final game of the year but also the hard work and dedication required in getting to that point through diligence and discipline. Knocking off one of Missouri's historically great football programs and owner of 9 previous state titles is no small achievement and the Hornets should be commended for their efforts in doing so.

Additionally, I want to recognize the outstanding leadership of Coach Dave Fairchild, who earned his first state title in his 26 years of coaching. Through his vision and guidance, the Hornets were able to repeatedly deliver solid results and achieve the honor of state champions.

Madam Speaker, I respectfully request you to join me in congratulating the achievement of the Penney High School football team on their state championship.

HONORING THE SERVICE OF  
JEANNE M. MERSHON**HON. JAMES P. MORAN**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. MORAN of Virginia. Madam Speaker, I rise today to express my gratitude to a long-time employee of the House of Representatives, Jeanne M. Mershon, who, on November 30th, retired after more than 27 years of dedicated service to this body. Ms. Mershon is a constituent of Virginia's 8th Congressional District, born and raised in Springfield, Virginia and currently resides in Arlington. Jeanne is a proud graduate of the Northern Virginia public school system and her alma mater, the College of William and Mary.

Ms. Mershon began working for the House of Representatives in 1982 in the Office of the Clerk after a stint at the Federal Election Commission. She started in the Office of the Director of Non-Legislative and Financial Services and later joined the Chief Administrative Office in the Office of Facilities Management. After over a decade of making sure the operations of the House ran smoothly, in December of 1995, she joined the Parking Security Office for the House Sergeant at Arms, where she has since served as Assistant Director.

Ms. Mershon is known by her peers as thorough and detail oriented, as well as someone they are able to turn to at any time, even with the most difficult questions. This past September, Ms. Mershon was the recipient of the Office of the Inspector General's "Employee Excellence Award," a fitting tribute to her tireless efforts. We are fortunate to have had Ms. Mershon's service for so many years. She will be sorely missed by all her friends and colleagues. I wish her the best in all of her future

endeavors and a lifetime ahead of even greater reward.

MS. BERTHA M. JONES—  
AGRICULTURALIST,  
THROPIST, CHAMPION**HON. BENNIE G. THOMPSON**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. THOMPSON of Mississippi. Madam Speaker, it gives me immense pleasure to recognize the life and legacy of one of America's most prolific champions of agricultural education and science, Ms. Bertha M. Jones.

Ms. Jones is a native of Huntsville, AL, where she first found her love for agriculture and appreciation for the mystical wonders of nature. Ms. Jones graduated from State Agricultural and Mechanical Institute in Alabama, currently known as Alabama A&M in 1945, receiving her Bachelor's of Science in Home Economics. After completing her undergraduate studies, Ms. Jones began her career in Luverne, Alabama as a Negro Home Demonstration Agent servicing Crenshaw County for more than a decade.

In 1956, Ms. Bertha received her Master's of Education in Home Economics from Penn State University and shortly thereafter served as a State 4-H Agent for Negro Girls at Tuskegee Institute, currently known as Tuskegee University. During that period Ms. Jones was responsible for 4-H publications and 4-H administration for 37 county agents. Her desire for scholastic achievement led her to further her studies at both Prairie View A&M and George Washington University.

Ms. Bertha Jones lives by the motto, "4-H Is Life", devoting countless hours towards the educational and economic growth of young people throughout the region. Ms. Jones believed that every young person should be exposed to the 4-H experience because it was instrumental in life skills development. Ms. Jones served multiple roles both locally and nationally for 4-H related junctures, including membership on the National and State 4-H Congress Committees, the 4-H Food Preservation and 4-H DOT Committees as well as the 4-H Advisory Committee. Ms. Jones was also the first State Leader for Urban 4-H in both Mobile and Huntsville, AL.

Ms. Jones has authored and co-authored numerous publications dedicated to advancing agricultural studies among rural and urban communities. Some of her works are comprised of the 4-H Officer Training Handbook, Clean Look and Your Health, and the History of Negroes in Cooperative Extension, which she co-authored with Dr. Richard Bailey. Not only has she authored and co-authored publications, Ms. Jones also has been featured in publications such as *They Too Call Alabama Home: African American Profiles, 1800–1999*, written also by Dr. Bailey.

Ms. Jones is a noted philanthropist of local 4-H efforts, giving not only financial resources but also substantial amounts of time towards helping enrich and increase the growing knowledge among young people about 4-H procedures and practices, willing monetary support for those wishing to expand their knowledge through involvement in 4-H activities or pursuit of higher education.

During the course of her career, Ms. Jones received a number of plaques, certificates and awards of recognition and achievement. Some of her most treasured awards include a Presidential Citation for the National Association for Equal Opportunity in Higher Education as well as her 2004 induction into the National 4-H Hall of Fame. Not only has Ms. Jones received citation and notary inductions but she also has a conference room dedicated in her honor at Alabama A&M in the Home Economics Department.

Ms. Jones was a faithful steward of the Greenwood Missionary Baptist Church in Tuskegee, AL where she served as an active member of their congregation since 1970. During her membership Ms. Jones served in several capacities including the choir, the Pastor's Aid Committee and as a devoted Sunday school teacher.

Thank you for allowing me the opportunity to recognize one of the finest agricultural icons in American history, Ms. Bertha M. Jones. Her achievements and contributions to the world of agricultural science will never be forgotten.

## PERSONAL EXPLANATION

**HON. J. GRESHAM BARRETT**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately, I missed the following recorded votes on the House floor on Tuesday, November 17, 2009 and Wednesday, November 18, 2009.

For Tuesday, November 17, 2009, I ask that the Record reflect that had I been present I would have voted "Aye" on rollcall vote No. 892 (on motion to suspend the rules and agree to H.R. 3360), "Aye" on rollcall vote No. 893 (on motion to suspend the rules and agree to H. Res. 842), "No" on rollcall vote No. 894 (on approval of the Journal), "Aye" on rollcall vote No. 895 (on motion to suspend the rules and agree to H. Res. 891).

For Wednesday, November 18, 2009, I ask that the Record reflect that had I been present I would have voted "No" on rollcall vote No. 896 (on agreeing to H. Con. Res. 214, which provides for a conditional adjournment of the two Houses), "No" on rollcall vote No. 897 (ordering the previous question on the Rule for H.R. 3791, the Fire Grants Reauthorization Act of 2009), "No" on rollcall vote No. 898 (on agreeing to H. Res. 909, which provides for consideration of H.R. 3791), "No" on rollcall vote No. 899 (on agreeing to the Perlmutt Amendment to H.R. 3791), "Aye" on rollcall vote No. 900 (on agreeing to the Flake Amendment to H.R. 3791), "Aye" on rollcall vote No. 901 (on passage of H.R. 3791).

HONORING THE KEARNEY HIGH  
SCHOOL GIRLS CROSS COUNTRY  
TEAM**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GRAVES. Madam Speaker, I proudly rise to recognize the outstanding achievement

of the Kearney Bulldogs High School girls cross country team in capturing their first-ever Class 3 state championship.

Winning their first state championship was even more sweet for Kearney, as they beat the powerhouse team of West Plains, who just last year squeaked past the Bulldogs by three points to win the state championship. This year, the hard work and dedication paid off as all seven Kearney runners placed in the top 50 in a field of 165.

Additionally, I want to recognize the outstanding leadership of Coach Jeff Roberts. Through his vision and guidance, the team was able to deliver solid results and achieve the honor of state champions.

Madam Speaker, I respectfully request you to join me in congratulating the Kearney High School girls cross country team on their state championship.

#### NADINE GULIT AND "OPERATION SUPPORT OUR TROOPS"

#### HON. DAVID G. REICHERT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Mr. REICHERT. Madam Speaker, I rise today in honor of the co-founder of an organization that provided comfort and support for thousands upon thousands of our brave service men and women.

For nearly eight years, Nadine Gulit has freely given nearly all her time to support and run "Operation Support our Troops." Whenever I hold Veterans Fair's in my district, the 8th of Washington, or attend veterans or service member rallies, Nadine is always present. Providing aid and comfort to our brave soldiers was the work of her heart and soul and she poured 100 percent of both into "Operation Support Our Troops."

As the story goes, Operation Support Our Troops started after Nadine's daughter Sheryl Sheaffer received a message from her son Scott serving in Iraq. At that point, Nadine and Sheryl were active in a grassroots organization called "Operation Home Front," a support our troops grassroots effort. But after receiving Scott's call, Sheryl and Nadine took supporting our troops to a new level.

"Operation Support Our Troops" has held many, many rallies in support of service members around Western Washington and is in regular contact with thousands of military supporters around the State. "Operation Support Our Troops" has sent care packages to tens of thousands of our soldiers at a time and has touched the lives of many more.

Nadine's family has a long history of service to this country and a deep respect for the work our soldiers do at home and abroad. Nadine and her group have been honored and recognized for their tireless efforts before, and I felt strongly I needed to add my name to the list. Their contributions will be missed but they have provided a blueprint for patriotic Americans to follow.

On November 5, Specialist Aaron Aamot—a 22-year-old soldier from Custer, Washington—was killed in Afghanistan by an IED. His father Mark, reflecting on his son's death and the outpouring of support from his community and country, quoted 19th century French historian Alexis de Tocqueville: "Amer-

ica is great because she is good, and if America ever ceases to be good, she will cease to be great." Madam Speaker, Nadine is the kind of American de Tocqueville was talking about. She is good and people like her continue to make America great.

#### INTRODUCING THE ENDOCRINE DISRUPTING CHEMICALS PREVENTION ACT OF 2009

#### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Mr. MORAN of Virginia. Madam Speaker, today I am introducing the "Endocrine Disruption Prevention Act of 2009," legislation that will not only established a much-needed comprehensive research program to identify chemicals that interfere with human reproduction and development, but that also will require regulatory agencies to provide an appropriate public response as to how they will respond to the scientific findings and what actions they will take to protect humans from exposure to such chemicals.

Recent studies have convincingly demonstrated that a disturbing increase in the number of disorders of the human endocrine system is seriously undermining the health of our Nation. These disorders include autism, attention deficit hyperactivity disorder, asthma, juvenile and adult diabetes, juvenile cancer, autoimmune diseases, obesity, osteoporosis, Parkinson's disease, and Alzheimer's dementia. These disorders began to increase noticeably in the early 1970s when the first generation exposed in the womb to post-World War II synthetic chemicals reached maturity. Today, 1 in 3 children and 1 in 2 minority children will develop diabetes; 1 in 6 children is born with neurological damage; 1 in 100 children has an autism spectrum disorder—among boys the occurrence is 1 in 58; and in 2007, an age-independent decline in testosterone levels over the past 20 years was discovered in American men. Evidence from human epidemiological and laboratory animal studies have linked these disorders to prenatal exposure to endocrine disrupting chemicals (EDCs), yet the hands of federal agencies remain tied under existing law.

In 1996, Congress recognized the need to study endocrine disruptions when it directed the EPA to develop an endocrine disruption screening program as part of the Food Quality Protection Act. Unfortunately, for various reasons, many being political, the program has been plagued by delays. Here we are, 13 years later, and it wasn't until October of this year that EPA announced the availability of initial assays and testing guidelines for a limited number of chemicals. Moreover, many question whether any testing conducted under EPA's program will even be as relevant or effective as it could be, as scientists' knowledge and understanding of endocrine disrupting chemicals, and how to best detect them, has increased rather profoundly since that time, and will continue to do so. Using a modernized 21st century testing paradigm that recognizes the known unique, subtle, and complex properties and effects of EDCs is necessary, as only then will we have accurate, practical data to inform appropriate and expeditious regulation of them.

In the legislation I am introducing, the science, not politics, will set the stage for action to be taken by regulatory agencies. First, the National Institute of Environmental Health Sciences (NIEHS) will undertake a comprehensive research and testing program, using the best available science, to identify chemicals with endocrine disrupting potential. In addition, an independent expert panel, guided by the scientific research, will develop a list of the chemicals and evaluate the potential threat they pose. If the expert panel expresses even a minimal level of concern over the potential threat a chemical poses, regulatory agencies will be required to explain how they plan to respond to the scientific findings. Hopefully, this process will lead to a greater public awareness of potentially dangerous chemicals, as well as a swift appropriate response by our regulatory agencies that will limit or prevent exposure to them.

I urge my colleagues to support this important legislation and I ask that the full text of the legislation be printed in the RECORD at the conclusion of these remarks.

#### PERSONAL EXPLANATION

#### HON. BRIAN P. BILBRAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Mr. BILBRAY. Madam Speaker, on rollcall No. 915, had I been present, I would have voted "yea."

#### IN HONOR OF JAY DUNN'S RETIREMENT FROM IBEW LOCAL 146

#### HON. PHIL HARE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Mr. HARE. Madam Speaker, I rise to honor the long and dedicated service of Mr. Jay Dunn, an outstanding member of IBEW Local 146 in Decatur, Illinois. Jay retired from the Local on November 30, 2009 after a distinguished career serving the people of Decatur and his brothers and sisters in the labor movement.

A long-time resident of Decatur, Jay started in the labor movement when he was accepted into IBEW Local 146's apprenticeship program in 1973. After starting work in July of 1973, Jay completed his first year of classroom instruction and on-the-job training and was initiated into the local in August 1974.

Jay became a journeyman wireman in May 1977 after an extensive 4-year apprenticeship program and since then has held many roles in the local, including serving as a job foreman, general foreman, and steward. He served on and chaired numerous committees for the local and was a member of the executive board at the time of his appointment to business manager/financial secretary.

Jay took great pride in building the labor community's presence in the Decatur area. This culminated in Jay being named the president of the Decatur Building and Construction Trades in 2000. His tenure was marked by his aggressive representation of working men and women. His many accomplishments include

successfully pushing an effort to recruit minorities into area unions and his work in setting up programs designed to prepare individuals for entry into an apprenticeship program. He also worked tirelessly to get members of labor registered to vote and elected to office.

Jay's love of service goes beyond his work with his fellow tradesmen and women. Jay has maintained a long career in public service and has served on the Economic Development Corporation of Decatur/Macon County, the City of Decatur Electrical Commission, and currently the Macon County Board as its chairman. Jay has shown a dedication to our community that is second to none.

I wish Jay, his wife Cheryl and his family the best as Jay prepares to retire.

**HONORING THE LIBERTY HIGH SCHOOL VARSITY CHEERLEADING TEAM**

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GRAVES. Madam Speaker, I proudly rise to recognize the outstanding achievement of the Liberty High School Varsity Cheerleading team in capturing their second straight state championship.

Once again, the Liberty Varsity Cheerleaders were able to be crowned champions this year through hard work and tireless effort. This is the second straight year in a row the Blue Jays have won the state competition and the first time that Liberty High School has won consecutive state championships. To accomplish this feat was no easy task. The team started training in April and worked vigorously through each day of the summer.

Additionally, I want to recognize the exceptional leadership of coaches Brenda Moats, Daisy King, and Allison Kenealy. Through their vision and guidance, the Blue Jays were able to repeatedly deliver solid results with great athleticism and finesse.

Madam Speaker, I respectfully request you to join me in congratulating the Liberty High School Varsity Cheerleading team on their state championship.

**HONORING THE 60TH ANNIVERSARY OF VOICE OF AMERICA'S UKRAINIAN SERVICE**

**HON. JIM GERLACH**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GERLACH. Madam Speaker, I rise today to congratulate the Voice of America's Ukrainian Service on its 60th Anniversary and to honor this organization for its commitment to broadcasting accurate, balanced, and comprehensive news and information to Ukraine.

Founded in 1949, the Voice of America's Ukrainian Service broadcasts two hours of television programming per week to approximately 4.7 million viewers in Ukraine. This service provides up-to-date information on international and American news, as well as feature stories about American life and social trends.

Voice of America's Ukrainian Service has been a steady source of unbiased information for Ukrainian citizens from the height of the Cold War to the collapse of the Soviet Union. More recently, this service was a vital source of commentary and analysis during the Orange Revolution in 2004, which saw the election of a pro-Western Ukrainian majority.

Thanks to the dedication of its staff, Voice of America's Ukrainian Service has played an important role in promoting United States diplomacy and democratic values to Ukraine. Millions of Ukrainians continue to benefit from the service's commitment to journalistic excellence.

Voice of America's Ukrainian Service will celebrate its 60th Anniversary on December 11, 2009 at Voice of America headquarters in Washington, D.C.

Madam Speaker, I ask that my colleagues join me today in recognizing the Voice of America's Ukrainian Service for reaching this milestone and commending the continued efforts of this service to aid in the full integration of Ukraine into the Euro-Atlantic community of democratic nations.

**HONORING THE LIFE AND SERVICE OF SHIRLEY LAI**

**HON. MADELEINE Z. BORDALLO**

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Ms. BORDALLO. Madam Speaker, I rise today to commend Shirley Lai for her lifetime of community service to the people of Guam. Shirley passed away on November 28, 2009. Shirley was born in a small village in Canton, China on September 5, 1931 and later moved with her parents and four siblings to Hong Kong.

Shirley and her husband, Kwong Choy Lai, and her eight young children, moved to Guam in the late 1970s. Shirley started the Estimewa Restaurant, one of Guam's first restaurants specializing in Chinese cuisine. In 1983, after renting a vacant barbershop in an old hotel in Hagåtña, the capital of Guam, she opened her first coffee shop with only two employees. Shirley blended flavors of American, Chinese, Filipino and local Chamorro cuisine, and a short time later Shirley's Coffee Shop quickly grew from a nine table coffee shop into a chain of six restaurants, four in Guam and two in Saipan.

Throughout her life, Shirley continually gave back to her community. Just as she contributed much to the community of Guam, she taught her children to be generous and that success is best measured by the community's reciprocity in trust and respect. She and her family provided assistance to the American Red Cross, the Salvation Army, the Make-a-Wish Foundation as well as several sports leagues for children. She also assisted in disaster relief efforts during times of recovery in our region.

Like many who knew her as a close friend and community leader, I will miss Shirley. My thoughts and prayers are with her sons and their families; her daughter and husband; her fifteen grandchildren; and her great grandchild.

**RECOGNIZING THE 225TH BIRTHDAY ANNIVERSARY OF FORMER PRESIDENT ZACHARY TAYLOR**

**HON. ERIC CANTOR**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. CANTOR. Madam Speaker, I rise today to recognize the 225th birthday anniversary of former President Zachary Taylor. President Taylor was born in Orange County, Virginia, on November 24, 1784, to a family with a background in military service. His father, Richard Taylor, fought in the Revolutionary War, and Zachary followed in his footsteps in 1808 as he started a military career of his own. Zachary Taylor was personally appointed by his cousin James Madison to serve as a first lieutenant in the War of 1812, and he led many successful battles thereafter.

Because of Zachary Taylor's military accomplishments, he achieved national recognition, and won the Whig Party nomination for President in 1848. Subsequently, he became the twelfth President of the United States, joining the ranks of presidents born in Virginia. As President, Taylor implemented an effective foreign policy, especially in regards to forming a strong alliance with Great Britain.

Sadly, on July 4, 1850, after having served as President for only sixteen months, Zachary Taylor died unexpectedly. He served his country well both in the military and political fields. In honor of President Taylor, the United States Mint will be placing a Zachary Taylor coin into public circulation.

Please join me in remembering the many outstanding contributions of President Zachary Taylor.

**THE DISTRICT OF COLUMBIA OMNIBUS AUTHORIZATION ACT**

**HON. ELEANOR HOLMES NORTON**

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Ms. NORTON. Madam Speaker, the District of Columbia Omnibus Authorization Act is a welcome committee innovation designed to achieve greater efficiency in handling local District of Columbia matters, most of which are of little importance or concern to Congress, but must come to Congress because they are restricted by Federal statute and cannot become D.C. law until approved by congressional action. All of the provisions in this bill have been passed or approved by the District of Columbia.

This bill contains several land-transfer provisions. In an important effort to continue to balance the city's growing need for land with the National Park Service's (NPS's) mission to protect park land, we are encouraged by the NPS's willingness to move forward with a few small land transfers. The land transfers consist of six small, unused parcels of land scattered throughout the city. Two of the parcels complete a previous Federal transfer to allow the development of the southwest waterfront to move forward. The other four small land transfers, mainly parts of schools and libraries, include a portion of the Marie H. Reed Community Learning Center in northwest Washington,

the old Meyer Elementary School site, the Shaw Junior High School recreational fields, and the southwest library site. Each of these small parcels will allow the District to develop play fields, encourage new development, and improve livability in the District of Columbia.

Also transferred is full ownership to the southwest waterfront, another important effort in the continuing revitalization of undervalued and underused areas, burdened by Federal ownership, which the Federal Government has no interest in using. The District of Columbia has created a new vision for the southwest waterfront that will draw visitors down 10th Street from the National Mall to the waterfront area. However, for reasons largely forgotten from the time of the original transfer of land to the District of Columbia from the NPS in 1960, the original law restricts the use of the land along the waterfront to lease-only arrangements, effectively cutting the city off from building any multi-use structures on the site and driving down its useful value. The restriction on the land, allowing the District only to lease the land, cuts off the District from moving ahead with residential plans that are necessary for badly needed taxpayer growth. Neither the NPS nor the Federal Government has any interest in the waterfront land, nor does it have interest in the future of the southwest waterfront parcels, other than the Maine Lobsterman Memorial and the Titanic Memorial, which have been carved out of the transfer.

An issue integral to the southwest waterfront development is the authorization to narrow the Washington Channel. This bill would narrow the Washington Channel from its current 400 feet to 200 feet, allowing the District to build new piers out into the Washington Channel, to repair existing piers, and to facilitate the redevelopment of water-based activities on the waterfront. The Army Corps of Engineers is supportive of the change, but cannot make this change administratively, and the Coast Guard has indicated that there are no safety concerns in the proposed changes.

In addition to the land transfers, the bill makes several small, noncontroversial statutory changes that also are of no importance to the Federal Government, but will help the District run more smoothly and effectively. For instance, section two of the bill would eliminate the unnecessary restriction on the sale and advertising of lottery tickets in the "federal enclave" and in the Shipstead Luce area, which both include areas of downtown D.C. The current prohibition has a tremendous fiscal impact on the District and on private businesses.

Section three of the bill will allow the District to spend unanticipated local revenue that comes in after the District has submitted its budget to Congress, and will give the District authority to take money out of its cash reserve fund for cash-flow management, not to exceed 50 percent of the balance of the fund. Congress has approved these measures in the past, and this legislation simply seeks to make them permanent.

Section seven would exempt bonds issued by the District of Columbia from Federal, state, and local taxation. Currently, tax-exempt bonds issued by the District of Columbia are exempt from taxation only by the District and by the Federal Government. In contrast, bonds issued by Puerto Rico, Guam, and the Virgin Islands are exempt from taxation by each of the 50 States. This change is necessary to

avoid disadvantage to the District in the sale of its bonds because this tax-exempt status will increase the demand for the District's bonds and, lower the interest rates that the District bonds pays on its bonds.

Section eight amends the D.C. Code to give the D.C. courts necessary authority and flexibility to operate efficiently and effectively. First, section eight eliminates the District's statutory requirement to hold judicial conferences on an annual basis. Given how accessible literature and information are through the internet, and specifically from the D.C. courts' websites, annual conferences are an unnecessary and time-consuming expense. This section simply gives the D.C. courts the discretion to hold judicial conferences either annually or biennially. In addition, this section gives the D.C. courts authority to delay or toll judicial proceedings in an emergency. The D.C. courts recognize the need to prepare for a catastrophic event, such as a terrorist attack or an act of nature. The D.C. courts already have authority to conduct sessions outside of the District if emergency conditions within the city prohibit normal operations. However, in emergency situations, conditions may impede the transfer of operations to outside of the District for a period of time. In these situations, the D.C. courts must have the authority to delay or toll proceedings. Similar bills have been introduced here in Congress regarding the Federal court system, and several States have enacted similar legislation. Finally, this section will give the D.C. courts authority to offer voluntary separation incentive payments or buyouts. These buyouts will allow the courts to respond to their future administrative and budget needs. Currently, Federal agencies and the Federal courts have the authority to offer buyouts.

Section nine of our bill makes minor changes to the District's Home Rule Charter. This section would permit an increase to the salary of the District's Chief Financial Officer, CFO, currently set at level I of the Executive Schedule. The charter mandates that the District's CFO "shall be paid at an annual rate equal to the rate of basic pay payable for level I of the Executive Schedule". The current law does not allow deviations either below or above that level. The District must have the authority to offer a higher annual salary to allow the District to compete with other jurisdictions to hire and retain the most qualified CFO. This section also reduced the timing for special elections for ward council members in the District from 114 days to 70 days to reduce the lapse in local representation, which is necessary and important to the citizens of the District. Current law already permits appointments for vacancies in the office of the Mayor, city council chair, and at-large council seats. This provision simply fills a necessary gap. Further, this section would amend the Home Rule Charter to allow the District to spend from its contingency reserve and emergency reserve funds when they exceed the minimum required balance as set by the charter. The District will continue to be required to replenish the funds if they fall below the minimum required balances.

We ask that the House pass this bill in a bipartisan manner, as it always has done for the D.C. omnibus authorization bills.

HONORING DAVE WILSON  
NURSERY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Dave Wilson Nursery upon being named a "Legend of Agriculture" by the Ag Hall of Fame. Mr. Wilson was honored on Thursday, November 12, 2009 at the twelfth annual Ag Hall of Fame Dinner in Turlock, California.

Mr. Dave Wilson began his career working at Kirkman Nursery, a prominent tree nursery. It was at Kirkman Nursery that Mr. Wilson had the opportunity to grow and develop Junebudded orchard trees. After fourteen years, Mr. Wilson departed from Kirkman Nursery and established his own nursery in 1938. During the late 1930s and early 1940s, he and his wife, Isabel, along with his wife's sister and brother-in-law, Pearle and Walter Mann, operated Empire Nursery, a garden center located east of Modesto, California. The nursery was renamed to Dave Wilson Nursery in the early 1940s. At this time, Mr. Wilson's son-in-law, John Wynne, joined the family business.

Mr. Wilson and Mr. Wynne grew commercial orchard trees in a partnership until the company was incorporated in 1957. Mr. Wynne became president of the nursery in 1962 and five years later purchased the new headquarters for the nursery along the Tuolumne River east of Hickman, California, where the headquarters remains today. In the mid 1960s, the nursery established a sales and distribution facility in Hughson, California. In 1966, Dave Wilson Nursery introduced the first tree fruit varieties developed by Floyd Zaiger, and the nursery remains the primary propagator and exclusive licensor of Mr. Zaiger varieties, with annual sales of over a million trees of patented varieties and rootstocks. In 1986 the sales and distribution facility was relocated to the nursery's growing grounds in Hickman to better facilitate management of the operation. In 1979, an office, test orchard and sales yard was established in Selma, California, which was later relocated to Reedley, California in 1995.

Madam Speaker, I rise today to commend and congratulate Dave Wilson Nursery upon being named as a "Legends of Agriculture." I invite my colleagues to join me in wishing Dave Wilson Nursery many years of continued success.

CONGRESSIONAL COMMENDATION  
FOR THE LIFE OF ISIAH JESSIE  
WILLIAMS, III

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Ms. CORRINE BROWN of Florida. Madam Speaker, this communication is forwarded on behalf of the constituents of the Third Congressional District of Florida and myself as we pay tribute to the life of Isiah Jessie "Ike" Williams, III.

We are deeply and profoundly saddened by the loss of our dear friend, mentor and brother

"Ike" Williams. This man of great stature and bearing was the epitome of a gentleman and a scholar. We were moved by his passion, emboldened by his commitments, honored by his friendship and made all the better by his innate wisdom and his belief in the integrity of the human experience. His was a purposeful life and one that helped shape the destinies of historical figures with whom he conversed, and equally so that of the common man and woman, in whom he placed unwavering faith. We came to know him as a dedicated servant to his people and just causes, a scholar and historian without comparison. We were assured for we came to know the absoluteness of his word, the sanctity of his promise, the depth of his intellect, the breadth of his worldly experiences, his place in history, and of his true love for his wife, his family and his friends.

We come now to remember the man, the Korean War Veteran, the lawyer, the educator, the editor and publisher and most preciousely we come to remember our friend. We are poised to remember him as repository of our histories—spoken, written and shared. His was the force of change through direct action, intervention, education and by challenging the very fabric of society. By his very being we were blessed; and in this moment in our collective memories, we pray for the family and find solace in the knowledge that "Ike" has found that eternal peace in the embrace of his Heavenly Father.

#### INTRODUCTION OF THE ENHANCED ACT

### HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. KENNEDY. Madam Speaker, depression and bipolar disorders affect one in five people and are the leading cause of disability among individuals between the ages of 15 and 44 in the United States. The economic burden of depression is estimated at \$83.1 billion each year. With medication, psychotherapy, or combined treatment, most people with mood disorders can be effectively treated and resume productive lives. Yet, one-third of those suffering from depression—nearly five million Americans—do not receive the necessary treatment.

For these reasons, I am proud to introduce the Establishing a Network of Health-Advancing National Centers of Excellence for Depression Act of 2009 (the ENHANCED Act) with my colleague, Representative TIM MURPHY (R-PA). This legislation would establish national centers of excellence for the treatment of depressive and bipolar disorders. Currently, clinicians lack universally accepted multi-disciplinary approaches and real-time clinical and care management guidelines they need. As a result, about 50 percent of the time the diagnoses of depression and bipolar are missed. Better diagnostic approaches are needed in primary care, other medical settings, and mental health programs.

To combat this, the ENHANCED Act would create a national network with a pathway for developing and expanding up to 30 depression centers of excellence to increase access to the most appropriate and evidence-based

depression care. This concept is based on work done informally by 16 academic research institutions across the Nation that have joined together to create a network of depression centers that take academic research and translate it into practice, standardize diagnoses, treat early and more effectively, and prevent recurrences of depression and bipolar disorders, as well as eradicate the stigma associated with these diseases. These centers will develop and disseminate evidence-based treatment standards, clinical guidelines, and protocols to improve accurate and timely diagnosis of depression and bipolar disorders.

I look forward to working with my colleagues to ensure the passage of this critical legislation.

#### CELEBRATING THE ACHIEVEMENTS OF JERRY EDISON HOCKADAY

### HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. ETHERIDGE. Madam Speaker, I rise today to congratulate Deputy Fire Chief Jerry Edison Hockaday on the eve of his retirement after 50 years with the Angier and Black River Fire Department in Angier, North Carolina.

Mr. Hockaday was born on May 28, 1941 and joined the Angier and Black River Fire Department on January 1, 1960 when he was just 20 years old. He quickly rose through the ranks and has been the Deputy Fire Chief for the last ten years. In his 50 years with the Angier and Black Fire Department, he has responded to fires, auto accidents, hurricanes, tornadoes, floods, electrical storms and other various rescue situations. He has shared his knowledge with young firefighters, many of whom have continued on to become officers with the department or other professionals with the fire service. Jerry is a tireless servant of the community and the Angier and Black River Fire District has been fortunate to have him.

I know how important it is to have firefighters ready for action with the training and resources they need. The Angier and Black River Fire Department is part of a vast network of fire officers and other public safety personnel who devote their lives to protecting their communities and responding to crisis situations. When a person dials 9-1-1 in an emergency, the phone doesn't ring in Washington, D.C., it rings right here in our community. I served on the House Committee on Homeland Security from its inception until this past year, and one of my highest priorities on the committee was to make sure the Department of Homeland Security works as closely as possible with local emergency management officials and first responders. The responsibility of the Federal government must be to protect the American people, and a large part of that is supporting local fire departments in their work.

The job of a fireman is not easy, and Jerry risked his life everyday for his neighbors and his community. He is a true American hero. I am proud to have Jerry in my community, and I ask my colleagues to join in congratulating his bravery and half a decade of diligent service.

#### HONORING ARTHUR GOLDEN

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. VAN HOLLEN. Madam Speaker, I rise today to recognize the outstanding achievements of Arthur Golden of Longboat Key, Florida, whose family members are my constituents. Mr. Golden was born in October 1923, and is the second child of Russian Jewish immigrants. His parents taught him to value freedom and emphasized the important role each individual has in ensuring freedom and equality for all.

After graduating from City College of New York, Mr. Golden married and enlisted in the Army. During World War II, he fought on the front lines in France and stood stoically in the streets of Marseilles as the American soldiers were honored on VE Day. When he returned from war, Mr. Golden entered the workforce as an accountant to take care of his extended family and shortly thereafter began his lifelong career and dedication to civil liberties. He volunteered his time with the Southern Christian Leadership Conference and with Dr. Martin Luther King, Jr. Mr. Golden and his wife were actively involved in the fight for equal opportunity housing projects and exposing landlords who refused to rent to African Americans and minorities. They were honored to have Dr. King visit their home and become friends with the family. When Dr. King was murdered, Mr. Golden immediately flew to Atlanta to be with Mrs. King and to assist with her financial matters.

After Mr. Golden retired, he and his wife moved to Florida and continued their commitment to the civil rights struggle, discovering injustices in the Jamie Poe Housing Project in Sarasota. They formed a committee and fought for the residents to keep their homes.

Mr. Golden's children are extremely proud of him and remember being taken to countless civil rights meetings, demonstrations, marches, protests, and community events. His family was touched when upon Barack Obama's election, tears flowed from a man who rarely shows emotion.

Mr. Golden, an eighty-six-year-old World War II veteran and lifelong civil rights fighter, has been an inspiration to his family, his community, and his Nation. His lifelong dedication to standing up for others in need and fighting for civil liberties is a legacy that is being carried on today by his children, grandchildren, and countless others influenced by his example.

Madam Speaker, I am honored to recognize the lifetime achievements of Arthur Golden and the contributions he has made to our Nation and our community.

#### HONORING JACK WILLIAM WAGNER

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. KILDEE. Madam Speaker, it is with great sadness that I rise today to pay tribute to the late Jack William Wagner. Jack passed



away on November 30th at the age of 85. His funeral is tomorrow in Mt. Morris, Michigan.

Jack Wagner was a veteran of the U.S. Navy, serving in World War II aboard the destroyer USS *Sampson*. When the war ended he returned to the Flint area and began working for General Motors. He was active in the United Auto Workers throughout his career. Elected by his peers, Jack served as President of Buick Local 599 before becoming the International Representative for UAW Region 1-C, and Assistant Regional Director of Region 1-C. He was the National Chairman of the 30 and Out Committee that became part of the 1970 National Agreement and continued to serve as Honorary Chairman of the 30 and Out Committee.

Mourning his passing are his two sons, Bryan and Jack, his step daughter, Susan Norling, his sisters, Miriam Routely and Verda Mello, several grandchildren and great grandchildren, friends including Don Spillman, and several nieces and nephews. He was preceded in death by his wife, Dorothy, his son, Gary, and his sister, Mildred Burgoyne.

Madam Speaker, I ask the House of Representatives to join me in remembering the life and work of Jack William Wagner. He was a committed, passionate advocate for working men and women; a devoted family man and a good friend. I will miss his wisdom, his insight, and his enthusiasm. My condolences go out to his family and friends at this sad time.

#### STATEMENT OF THE CO-CHAIRS OF THE CONGRESSIONAL CAUCUS ON U.S.-TURKISH RELATIONS AND TURKISH AMERICANS

#### HON. ROBERT WEXLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Mr. WEXLER. Madam Speaker, Ms. GRANGER, Mr. WHITFIELD and myself, as Co-Chairs of the Congressional Caucus on U.S.-Turkish Relations and Turkish Americans, Turkey Caucus, want to welcome Turkish Prime Minister Recep Tayyip Erdoğan to the United States. We believe the Prime Minister's visit reaffirms the longstanding strategic partnership between the United States and Turkey, and is a unique opportunity to enhance and foster economic, political, and security relations.

As many of our Congressional colleagues know, our NATO ally Turkey valiantly stood shoulder-to-shoulder with the United States and European partners throughout the Cold War. Over the past 20 years, Turkey has been integral to American and NATO efforts in the Balkans and has worked to enhance peace and stability in Central Asia and the Middle East. Turkey has also played a critical leadership role along with America and the international community in both Afghanistan and Iraq. We are hopeful that Turkey will continue to play a leading role alongside the United States, P5+1 partners and the international community with respect to Iran's nuclear program.

We also want to highlight and praise the historic steps recently taken by Prime Minister Erdoğan and his government to normalize Turkey's relations with its neighbor Armenia. With the support of the United States, both countries on October 10, 2009 signed two proto-

cols to achieve this goal. We believe that, with the continuing support of the United States and the international community, these protocols will provide a new impetus for the solution of other conflicts in the South Caucasus region.

Many of our colleagues appreciate the growing importance of our strategic relationship with Turkey which was described by President Obama during his visit to Turkey in April as a "Model Partnership." We are heartened by the fact that the Turkey Caucus, which began over 8 years ago, now numbers one hundred members.

The growth of the Turkey Caucus is a testament to the importance that members of Congress place on U.S.-Turkish relations and a recognition of the longstanding partnership between our two nations. Again, we welcome Prime Minister Erdoğan to Washington, and believe that his discussions with President Obama and the Administration will only serve to strengthen the U.S.-Turkish partnership as we face difficult global challenges.

#### OUR UNCONSCIONABLE NATIONAL DEBT

#### HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Mr. COFFMAN of Colorado. Madam Speaker, this morning our national debt was \$12,090,825,003,370.26. We have increased the national debt \$1,598,537,727.69 since just yesterday.

On January 6, 2009, the start of the 111th Congress, the national debt was \$10,638,425,746,293.80.

This means the national debt has increased by \$1,452,399,257,076.46 so far this year.

According to the non-partisan Congressional Budget Office, the forecast deficit for this year is \$1.6 trillion. That means that so far this year, we borrowed and spent \$4.4 billion a day more than we have collected, passing that debt and its interest payments to our children and all future Americans.

#### TRIBUTE TO DR. IRENE KHAN

#### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Mr. KUCINICH. Madam Speaker, the Obama Administration, in forging a new foreign policy that is more humane and less antagonistic towards other nations, would do well to follow the lead of the late Tom Lantos, who dedicated his life to the cause of human rights, an issue that has now become his legacy. Indeed, it is rare for the House to name an entity after one of its own, but the Tom Lantos Human Rights Commission, chaired by our colleague Jim MCGOVERN, can rightly claim that distinction.

Throughout his public career, Tom Lantos and his wife, Annette, maintained a deep and enduring commitment to human rights. Among the members of this chamber, Tom Lantos was widely respected across the political spectrum for his knowledge of foreign policy

and commitment to human rights. The issue was the very core of his beliefs and his eloquent voice became this chamber's conscience on many international issues.

Few in today's world can match Tom Lantos' commitment and achievements in the cause of human rights, but if there were such a person, it would be Dr. Irene Khan, who in 2001 became the first woman, the first Asian, the first Bangladeshi and the first Muslim to hold the position of Secretary General of Amnesty International.

Dr. Khan's caring about human rights victims and the poor dates back to her native Bangladesh's early struggle for independence, as she witnessed widespread poverty and multiple threats to human dignity. It has been a combination of her personal outreach to human rights victims and case studies from around the world, combined with her professional involvement in U.N. Organizations, that led to her being selected to head Amnesty International.

In her recently published book, *The Unheard Truth*, Dr. Khan describes the divergent tracks of a fellow Bangladeshi who was born in the same household and she grew up with, and while Khan went on to be a successful lawyer, her friend, Fajal, suffered a lifetime of violence and unemployment, and is now disabled, living in a shack in one of Dhaka's sprawling slums, surviving on handouts.

For Dr. Khan, this is a grim reminder of how people remain hopelessly trapped in poverty, often due to circumstances beyond economic conditions but rather the result of political repression, famine, war, or simply the insecurity and fear inherent in their local surroundings.

In her book, Dr. Khan reveals a more acute understanding of the forces that bring about human rights abuses. Poverty, she argues, is more than the lack of material resources, it is all about fighting deprivation, exclusion, insecurity and powerlessness.

As the numbers of people living in poverty swell to upwards of 2 billion, she argues that poverty is the world's worst human rights crisis. By raising the issue of rights, Dr. Zhan is not pointing fingers but providing a formula for sustainable and equitable solutions, and giving people the means to change the power imbalance that keeps them in poverty.

To achieve Tom Lantos' vision of the banner of human rights waving "over every corner of the world," I recommend that international leaders adhere to Dr. Khan's compelling message on the need to empower the world's poor with the basic economic, social, political, and legal rights to assure them a strong voice in shaping their own future.

#### RECOGNIZING THE STATE CHAMPIONSHIP OF RICHMOND, VIRGINIA'S COLLEGIATE HIGH SCHOOL FOOTBALL TEAM

#### HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Mr. CANTOR. Madam Speaker, I rise today to congratulate my Alma Mater, the Collegiate High School Football team on winning the 2009 Virginia Independent Schools Division I State championship. Led by Coach Mark Palyo, the Cougars compiled an impressive



10-1 record culminating in a 48-28 win over the Liberty Christian Academy Bulldogs in the Championship Game on November 21, 2009.

The Collegiate Cougars were successful in defending their state title which they have been awarded five out of their last seven seasons. I join the Richmond community, family and friends in proud recognition of the Collegiate High School Football team's fantastic achievement and undoubtedly bright future.

I commend the Cougars on their successful season and ask you to join me in celebrating their victory.

### THE HONOR FLAG

#### HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. POE of Texas. Madam Speaker, the American Flag always brings our Nation together in good or bad times. Shortly after the tragic September 11, 2001 attacks on our great Country, Americans all over the world raised up 'old glory' in patriotic understanding of the events which had just befallen our country. One of these many flags was the symbol of our nation's perseverance, humbly flown over Ground Zero. This flag continues to fly today all around this great Nation in support of our heroes, because of Texas Patriot Chris Heisler.

In the wake of September 11th, Chris Heisler, felt compelled to take action after witnessing his country come under attack. Chris was instrumental in organizing one of the longest police motorcades in the history of the United States; carrying a flag that was gifted to him by the Texas House of Representatives he set out for Ground Zero. The American flag is a symbol to revere, respect, and honor and Chris' profound respect for America's symbol should be commended.

Following the 9/11 terrorist attacks, patriotism surged in the United States. Many new recruits enlisted to help fight the war on terrorism. Chris Heisler was part of this movement, and at the age of 34 he put his business career on hold to enlist in the U.S. Army. While serving his country, Chris carried his revered flag with him to Kuwait, Qatar, and Iraq so it could fly with soldiers in combat zones.

Soon soldiers would refer to this flag as one of honor, and the flag is now named the United States Honor Flag. The United States Honor Flag continues to pay tribute to those who have lost their lives in the line of duty protecting the freedoms we all hold dear. Chris Heisler's patriotism is a lesson for us all.

Madam Speaker, betterment in our country often originates from the efforts of just one person. The establishment of the Honor Flag serves as an important reminder of the daily sacrifices our Nations heroes make, and recognizes the freedoms of Old Glory. In recognition of Chris Heisler's patriotism, in remembrance of the tragic events on September 11, 2001 and for those who continue to fight to preserve our liberty, I am proud to salute Chris Heisler for his loyalty to America, and to the United States Flag.

And that's just the way it is.

### INTRODUCTION OF THE PATIENT HEALTH AND REAL MEDICATION ACCESS COST SAVINGS ACT OF 2009

#### HON. G. K. BUTTERFIELD

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. BUTTERFIELD. Madam Speaker, prescription drugs are among the most expensive components of the American health care system. Unfortunately, the system for delivering drugs that has emerged since Congress created the Medicare Part D prescription drug benefit program continues to needlessly drive up these costs for taxpayers and consumers.

Failing on the promises to deliver prescription drugs more efficiently, effectively or at lower costs, pharmacy benefit managers, or PBMs, are reducing consumer choice and adding billions of dollars in costs for government and private health care plans.

As a result, today I will introduce the "Patient Health and Real Medication Access Cost Savings Act of 2009" to ensure cost savings, accountability and transparency. The bill will ensure that taxpayers, providers and patients can escape the mandates, secret pricing schemes, and marginal savings provided by PBMs in favor of an improved pharmacy model that guarantees choice, transparency and measurable savings.

Madam Speaker, nearly 60 large employers that collectively spend \$4.9 billion for prescription drugs recently dropped or forced PBMs to disclose their costs. The University of Michigan started the trend in 2005, and reported an annual savings of \$2.5 million when it dropped its PBM in favor of direct purchases. Officials at the University of Michigan are on record as saying that most of its derived savings came from eliminating fees from its former pharmacy benefit manager and from using the claims data to help school officials better negotiate prescription drug prices.

Additionally, companies like Caterpillar are leading the trend away from the PBM model. According to a recent report in CFO.com, Caterpillar's pharmacy benefit manager indicated that the company "found that there was a great deal of waste inherent in a system that uses PBMs as middle men."

This information led the House Committee on Oversight and Government Reform's Subcommittee on Federal Workforce, Postal Service, and the District of Columbia to hold a hearing on June 24, 2009 to assess the value PBMs are providing to the Federal Employees Health Benefits Program (FEHBP). At that hearing, the subcommittee chairman indicated, "federal employee plans pay substantially more for drugs than other agency programs, including those run by the departments of Veterans Affairs and Defense, and Medicare, Medicaid and the Public Health Service."

Mark Merritt, who represents PBMs as president of the Pharmaceutical Care Management Association (PCMA), told the subcommittee that PBMs contributed to an annual reduction in drug spending by the FEHBP of 3–9 percent. At the same hearing, however, Office of Personnel Management (OPM) Inspector General Patrick McFarland testified that the PBM contracts with FEHBP make auditing them "almost insurmountable."

There is no question that if Congress is to produce large savings as part of its efforts on

health care reform, it must challenge the PBM model that has emerged over the past few years with new models that contain costs and improve efficiency and transparency.

PCMA successfully lobbied Congress from 2001–2003 to allow PBMs to manage the massive new Medicare Part D drug delivery program. As a result of the industry's expanded market power, PBMs are now using new tactics to divert patients into higher-cost services, and to divert taxpayer savings into higher PBM profits. These practices represent a significant abuse of taxpayers and patients in the health care system. PBMs should be held accountable to taxpayers. No other providers in the health care sector are allowed to conduct business like PBMs.

With regards to patient data, pharmacists have complained for years to regulators that PBMs violate patient privacy laws by using their prescription data to push new products and steer patients to pharmacies owned by the PBMs. By comparison, physicians who "self-refer" to facilities they own face very serious legal liabilities. In addition, there is a concern that pharmacy benefit managers routinely sell patient drug histories to drug companies without the knowledge of patients, doctors or plan sponsors.

According to the Association of Community Pharmacists (ACP), patients receive letters every day from PBMs that use the confidential patient data pharmacies must collect to force them to move to pharmacies the PBMs own. ACP has collected thousands of petitions from patients who are asking Congress to stop this abuse of patient confidentiality. ACP has also collected actual letters to patients from PBMs that threaten to cut off pharmacy benefit coverage unless the patients fill their prescriptions at PBM-owned pharmacies.

In fact, PBMs have merged with pharmacy chains to accommodate this new marketing model, which relies on monopolization of drug care for patients in plans that are administered by the PBM. For example, CVS purchased the Caremark PBM company as soon as Congress passed the Medicare Part D program, which directs virtually all pharmacy services to go through PBMs. CVS/Caremark now mandates that all patients in its system use CVS exclusively to fill any prescriptions not mailed by Caremark. Patients who opt out, even if they are not near a CVS store, must pay 100 percent of their prescription costs regardless of how much they have paid in premiums for drug coverage. As a result, CVS now fills one of every seven prescriptions in the U.S.

PBMs also use predatory practices to steer patients away from competing pharmacies and into mail-only prescription drug services. For example, PBMs allow patients to obtain 90-day prescriptions—usually at big discounts—from their mail-order services. While this can be a bargain for patients, the retail pharmacies where patients may prefer to fill their prescriptions are prohibited from offering the same terms to the patient.

Coupled with the lack of enforcement action by the Federal Trade Commission, these PBM tactics are combined with a practice of systematic underpayment to any pharmacy that provides services to a patient whose drug benefit is managed by a PBM. The Association of Community Pharmacists has collected thousands of examples from pharmacies across the country that clearly demonstrate

that PBMs are refusing to reimburse any pharmacy for its actual cost of a drug if the pharmacy is competing with the PBM to serve the patient. This is despite the fact that the pharmacies are required under Medicare and other federal programs to submit all costs they incur for the programs to the PBMs for reimbursement. Today, these tactics are being used to consolidate market power and destroy competition. The result is higher prices for taxpayers and consumers.

An additional concern for Congress, taxpayers and consumers is the complete lack of information about the actual prices PBMs pay for drugs. As a result, we have no way of knowing just how much PBMs profit from underpayments to pharmacies. I am also sure that many of my colleagues here are unaware that PBMs require pharmacies filling prescriptions under their plans to sign non-disclosure agreements that cover drug prices. This includes pharmacies that must deal with PBMs through Medicare and other government programs.

The role of the PBM has evolved in a relatively short period of time. PBMs emerged during the advent of managed care as pharmacy benefit administrators. Their role was to help large plans simply process drug benefit claims. The companies evolved into pharmacy benefit "managers" when they reached a scale large enough to steer volume sales for drug manufacturers.

Today, PBMs have tremendous and questionable impact on the rising costs in the current drug program. Community pharmacies purchase drugs from wholesalers to fill prescriptions, and submit reimbursement forms to the PBMs for any patients covered by the PBM plan.

PBMs that own their own pharmacies or mail programs simply pay the pharmacies below their actual acquisition cost for the drugs and pocket the difference. This provides two benefits to the PBMs. First, they make big profits on the spread between the low reimbursement they pay for the medication and the inflated price they charge the program. Second, it drives the competing pharmacies out of business, which allows further market share gains and increased pricing power.

More recently, the PBMs have developed an additional revenue stream. When Congress passed the Medicare Part D program, large pharmacy chains realized the value of merging with PBMs. The merged companies now control huge shares of the prescription drug market, and use this control to extract fees from competing pharmacy retailers that service Part-D patients.

In short, Madam Speaker, PBMs have simply placed themselves in the middle of the drug supply chain between manufacturers or wholesalers and retailers without any proof that they add value. The "Patient Health and Real Medication Access Cost Savings Act of 2009" will help end these abuses by requiring transparency. It will also ensure that lower-cost generic medications are prescribed when appropriate whenever taxpayers are paying the bill. Most important, the bill will make sure that Congress and the taxpayers we serve can actually measure the savings they have been promised.

In closing, Madam Speaker, let me say that my home state of North Carolina is a model for how to achieve savings by moving away from the PBM model in its state administered

drug benefits program. Under its plan, generic utilization has already increased, and the state projects annual utilization to reach nearly 75% in the first year. The North Carolina model proves that when retail pharmacies manage the drug benefits for plans, generic utilization increases even more. I am proud of what has been accomplished in my state, and can only hope that Congress will choose to focus on this issue so that all Americans can reap the benefits and savings from a similar approach at the federal level.

#### PERSONAL EXPLANATION

**HON. HENRY E. BROWN, JR.**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Mr. BROWN of South Carolina. Madam Speaker, due to an illness, I was absent for votes on November 16, 17, 18 and 19. Please see a list of votes I missed.

Rollcall vote No. 889: S. 1314: To Designate the Facility of the United States Postal Service Located at 630 Northeast Killingsworth Avenue in Portland, Oregon, As the "Dr. Martin Luther King, Jr. Post Office."

Rollcall vote No. 890: H.R. 3539: To Designate the Facility of the United States Postal Service Located at 427 Harrison Avenue in Harrison, New Jersey, As the "Patricia D. McGinty-Juhl Post Office Building."

Rollcall vote No. 891: H.R. 3767: To Designate the Facility of the United States Postal Service Located at 170 North Main Street in Smithfield, Utah, As the "W. Hazen Hillyard Post Office Building."

Rollcall vote No. 892: H.R. 3360: Cruise Vessel Security and Safety Act: H.R. 3360.

Rollcall vote No. 893: H. Res. 841: Expressing Support for Designation of November 29, 2009, As "Drive Safer Sunday."

Rollcall vote No. 894: On Approving the Journal.

Rollcall vote No. 895: H. Res. 891: Expressing the Gratitude of the House of Representatives for the Service to Our Nation of the Coast Guard and Marine Corps Aircraft Pilots and Crewmembers Lost Off the Coast of California on October 29, 2009.

Rollcall vote No. 896: H. Con. Res. 214: Providing for a Conditional Adjournment of the Two Houses.

Rollcall vote No. 897: Previous Question on H.R. 3791, Fire Grants Reauthorization Act of 2009.

Rollcall vote No. 898: Rule for H.R. 3791, Fire Grants Reauthorization Act of 2009.

Rollcall vote No. 899: Perlmutter of Colorado Amendment to H.R. 3791.

Rollcall vote No. 900: Flake of Arizona Amendment to H.R. 3791.

Rollcall vote No. 901: H.R. 3791: Fire Grants Reauthorization Act of 2009.

Rollcall vote No. 902: Previous Question on H.R. 2781 to Amend the Wild and Scenic Rivers Act to Designate Segments of the Molalla River in Oregon, As Components of the National Wild and Scenic Rivers System, and for Other Purposes.

Rollcall vote No. 903: Rule for H.R. 2781 to Amend the Wild and Scenic Rivers Act to Designate Segments of the Molalla River in Oregon, As Components of the National Wild and Scenic Rivers System, and for Other Purposes.

Rollcall vote No. 904: S. 1599: Reserve Officers Association Modernization Act of 2009.

Rollcall vote No. 905: H.R. 2781: To Amend the Wild and Scenic Rivers Act to Designate Segments of the Molalla River in Oregon, As Components of the National Wild and Scenic Rivers System, and for Other Purposes.

Rollcall vote No. 906: H. Con Res. 212: Expressing the Sense of Congress on the Occasion of the 20th Anniversary of Historic Events in Central and Eastern Europe, Particularly the Velvet Revolution in Czechoslovakia, and Reaffirming the Bonds of Friendship and Cooperation Between the United States and the Slovak and Czech Republics.

Rollcall vote No. 907: Table the Appeal of the Ruling of the Chair on the Motion to Recommit H.R. 3961: Medicare Physician Payment Reform Act of 2009.

Rollcall vote No. 908: Motion to Recommit H.R. 3961: Medicare Physician Payment Reform Act of 2009.

Rollcall vote No. 909: H.R. 3961: Medicare Physician Payment Reform Act of 2009.

Rollcall vote No. 910: H.R. 1834: Native American Business Development Enhancement Act of 2009.

#### INTRODUCTION OF A RESOLUTION COMMEMORATING THE WORLD MARCH FOR PEACE AND NON- VIOLENCE

**HON. JOHN LEWIS**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 2009

Mr. LEWIS of Georgia. Madam Speaker, I rise to introduce a resolution commending the participants and organizers of the inaugural World Peace March.

Dr. Martin Luther King, Jr. famously said, "Non-violence is the greatest force at the disposal of mankind. It is mightier than the mightiest weapon of destruction devised by the ingenuity of man."

The idea for this march was developed during the Symposium of the World Center for Humanist Studies in Punta de Vacas, Argentina. The result is a 90-day global voyage to raise awareness about the importance of peace and nonviolence. More than 100 participants will visit 45 countries encouraging a global movement towards peace.

On the 140th anniversary of Mahatma K. Gandhi's birth, the World March for Peace and Non-Violence began in Wellington, New Zealand. The participants have since traveled across Asia, Europe, and Africa, through many countries in opposition to militarism, war, and violence. Upon arriving in the United States, the teams divided to travel across the country and to Canada before beginning the final leg of their journey through Central and South America en route to Argentina.

I applaud the participants for their commitment to nonviolence and their determination to follow in the footsteps of Gandhi and Dr. King. Earlier this year, I led a congressional delegation to India to commemorate the 50th anniversary of Dr. and Mrs. King's pilgrimage. Upon return, I introduced H.R. 3328, the Gandhi-King Scholarly Exchange Initiative Act of 2009, a bill to establish initiatives through the U.S. State Department and the U.S. Institute of Peace to rededicate our nation and educate our future leaders about the power of peace.

Madam Speaker, I have dedicated my life to Gandhi's words, "Nonviolence is a weapon of the strong." Nonviolence was the foundation of the Civil Rights and Quit India movement. I hope that all of my colleagues will appreciate the value of nonviolence as a means to achieving both domestic and global peace. I hope they will join me in support of this very simple resolution.

**DARÍO SILVA-SILVA: A GREAT  
COMMUNITY LEADER**

**HON. ILEANA ROS-LEHTINEN**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Ms. ROS-LEHTINEN. Madam Speaker, I would like to congratulate Dario Silva-Silva for being such an inspiring member of our south Florida community and for his community service and humanitarian work. His exemplary work and dedication to journalism, his church and our community.

Dario, born in Colombia, has been a Protestant preacher, social commentator and journalist for more than 30 years. His service has been promoted through numerous print media, radio stations and television channels. Silva is the minister of the Christian church The House Over the Rock, with twenty congregations in Colombia and one in Miami. He is the director of the television show "Hechos y Crónicas", which is seen in various countries in Latin American. In addition, he is a visiting professor at the Continued Studies School at the University of Miami Koubek Memorial Center and is a member of the Advisory Logo Counsel of the Christian College in Jacksonville. In 2001, the city of Miami recognized Dario for his inspiring work and dedication by declaring December 15 as the "Day of Reverend Doctor Dario Silva-Silva."

Once again, I would like to express my admiration of Dario for his dedication to journalism, his faith and the community. I wish him well and know that he will spend many more years serving his fellow man.

**HONORING THE STUDENTS,  
TEACHERS AND ADMINISTRATORS AT WAXHAW ELEMENTARY  
SCHOOL**

**HON. SUE WILKINS MYRICK**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mrs. MYRICK. Madam Speaker, I would like to honor and recognize the students, teachers and administrators at Waxhaw Elementary School in Waxhaw, North Carolina. During the month of November, Waxhaw Elementary students collected 2,742 food items for the school's 2009 Food Drive.

The food went to provide Thanksgiving meals to twenty-five families in the area. Families were able to come to the school to "shop" for Thanksgiving items, and were able to select either a ham or a turkey to complete their meal.

At a time when families across our area struggle to put food on the table, I am so impressed by the compassion and willingness to

help others shown by the Waxhaw Elementary family. Students not only contributed to the food drive, but were able to experience the reward that comes with helping others. What better lesson can we teach our young people, especially during the holiday season?

Madam Speaker, I am honored to say that I represent Waxhaw Elementary School. In a day and age where people tend to think only of themselves, here is a shining example of a group of young people who have reached out to make their community a better place by helping the less fortunate. I hope that this wonderful effort will continue at Waxhaw Elementary for many years to come.

**HONORING MR. STEPHEN  
HODGKINS**

**HON. MARSHA BLACKBURN**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mrs. BLACKBURN. Madam Speaker, it is a privilege to rise today to congratulate Mr. Stephen Hodgkins as he ends a successful term as President of the Memphis Area Homebuilders Association.

As homebuilders in Memphis and across Shelby, Fayette and Tipton County continue to weather an unrelenting storm of economic uncertainty, Stephen has provided a strong and steady hand of unwavering leadership that has shined as a beacon of hope and instilled confidence in MAHA members when his organization has needed it the most.

Throughout the course of his term as President, Stephen has been a relentless advocate for homebuilders and has worked tirelessly in reaching out to legislators in Nashville and in Washington, DC. Throughout our many discussions I have always found Stephen's advice to be insightful as we continue to look for ways to reinvigorate the housing market and alleviate the hardships that continue to face homebuilders across West Tennessee.

While the forecast for the housing market still remains unclear one thing that has always been certain is that Stephen's success as a leader is deeply rooted in the skills he has developed over 36 years as a mortgage banker and later through the launch of his home building company Oaktree Homes LLC.

Madam Speaker, I ask my colleagues to join me in congratulating Mr. Stephen Hodgkins for a successful term as President of the Memphis Area Homebuilders Association and wish him the best in all of his future endeavors.

**MEDICARE PHYSICIAN PAYMENT  
REFORM ACT OF 2009**

SPEECH OF

**HON. RUSH D. HOLT**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 19, 2009*

Mr. HOLT. Mr. Speaker, I rise in strong support of the Medicare Physician Payment Reform Act, H.R. 3961, legislation that would ensure that physicians are reimbursed fairly for treating Medicare patients. Improving this payment system is vital to improving our nation's health insurance system.

There is broad consensus that the current Medicare formula for reimbursing physicians, the Sustainable Growth Rate (SGR), is fundamentally flawed. This formula would be eliminated by this bill and replaced with a better structure for Medicare physician payments. Without this necessary action, doctors' payments would be cut 21 percent in 2010, forcing many doctors to stop accepting Medicare patients and undermining the ability of millions of Medicare beneficiaries to get the care they need to stay healthy. I am pleased that this new formula would compensate physicians fairly for their services to seniors.

As a U.S. Representative and the spouse of a physician, I have heard from many physicians, nurses, and other health care providers frustrated with the annual ritual of preventing major Medicare physician payment cuts. I am pleased that this legislation, a crucial part of health care reform, would stop this cycle and reset the Medicare physician payment baseline to ensure seniors continue to have access to their doctors. In addition, this bill recognizes the importance of primary care, a key component of health reform, and would provide seniors with greater access to primary care practitioners. This would help seniors with greater coordination of their medical care and promote medical care that keeps seniors healthy.

In addition to stopping the Medicare physician payment cuts, the legislation also would implement the Statutory Pay-As-You-Go Act. This Act would require all new spending to be paid for and not increase the debt by instituting pay-as-you-go budgeting as law. I support pay-as-you-go rules because fiscal discipline must always be a hallmark of our government. In the 1990s with pay-as-you-go as the law, we turned the massive deficits of the 1980s into a record surplus under President Clinton. Pay-as-you-go is only one tool, but it is a strong one to return our nation back to fiscal stability.

I voted in favor of this bill to help physicians and health care providers continue to provide excellent service to our nation's seniors.

IN MEMORY OF NAO TAKASUGI

**HON. ELTON GALLEGLY**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. GALLEGLY. Madam Speaker, I rise in memory of Nao Takasugi, a former California assemblyman and Oxnard mayor, who passed away last week after 87 years of dedication to family, friends, his country and his community.

Nao and I served together on the Ventura County Regional Sanitation Board more than 30 years ago and he and his wife, Judy, quickly became friends with me and my wife, Janice. I have also been friends with his son Russell for more than 30 years through Russell's law partnership with Bob Huber. They are a close and strong family.

Nao was an incredible gentleman. I don't think I ever heard him raise his voice. His strength was in quiet determination, a will to do good always, and an undyingly optimistic outlook.

Nao's parents immigrated to the United States from Japan and set up shop in Oxnard, California, where Nao was born on April 5, 1922. When World War II broke out, Nao was

a junior at UCLA and he was called home to help his family pack their belongings. With thousands of other Japanese-Americans, the Takasugi family was sent to internment camps, first at the Tulare County fairgrounds and then at Gila River, Arizona.

Nao's parents would have lost the Asahi Market his father had owned and operated since 1907 if it hadn't been for an employee, Ignacio Carmona, who offered to run it in their absence. When the family returned, Ignacio handed the keys over and thanked Nao's father for the opportunity to run the business.

Nao's family spent the entire war in an internment camp but Nao was offered an opportunity to continue his studies through a program run by the American Friends Service Committee and the Quakers in Philadelphia. He completed his business degree at Temple University in 1945 and went on to earn his master's from the Wharton School at the University of Pennsylvania.

Then he returned to Oxnard to help run Asahi Market.

In Tom Brokaw's book, *The Greatest Generation*, Nao described the internment camp experience this way: "I find that I am compelled to remember the best—not the worst—of that time. To focus not on the grave deprivation of rights which beset us all, but rather on the countless shining moments of virtue that emerged from the shadows of that dark hour."

Nao's road into politics mirrored my own. When the city denied his plans for a new sign, he decided politics needed a businessman's perspective. He was appointed to the planning commission, ran for city council and won, ran for mayor and won consecutive terms, ran for the California Assembly and was elected to three terms, then was elected to two terms on the Oxnard Harbor Commission.

Nao experienced the best and the worst that America had to offer during often trying times. Many Americans experienced the best America has to offer because of Nao's friendship, compassion and dedication to his country. I will miss him.

Madam Speaker, I know my colleagues will join me in sending our condolences to Judy, their children, and all their family and friends, and in remembering a gentle man who left an indelible mark.

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HONORING SHANNON BOAZ OF  
SONOMA COUNTY, CALIFORNIA

**HON. MIKE THOMPSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. THOMPSON of California. Madam Speaker, I rise today to honor Shannon Boaz, wife, mother, sister, daughter, friend and inspiration to all who came in contact with her, who passed away November 21, 2009, after a long battle with leukemia.

Shannon was an extraordinary woman who did not let her terminal diagnosis dampen her fighting spirit. She was first diagnosed with leukemia in June 2008, but by December of that year, the disease had remarkably gone into remission. She immediately began working with the committee in her hometown of Healdsburg, California to organize the annual anti-cancer "Relay for Life," which was held in

June 2009 and was named the Relay's Survivor Honoree.

Fate intervened on the last day of the Relay when her doctors determined that her cancer had returned. During the last four months of her life, much of it spent in the hospital, she continued to work with and comfort other leukemia and cancer patients.

To family and friends, Shannon would often state that she had the perfect life with her husband, Healdsburg Fire Captain Jason Boaz, and their two young sons, Jackson and Austin.

Shannon was born in Los Angeles on November 22, 1970, and moved to Sonoma County when she was five years old. She graduated from Geyserville High School in 1988 and received a degree in Business Administration from California Polytechnic State University in 1993.

Following college, she worked as a flight attendant for United Airlines and was in the air on 9/11, flying from Boise, Idaho to San Francisco. Shannon took a furlough following 9/11 to raise her family and manage the construction of the family home in Healdsburg. She worked as a realtor at Full Spectrum Properties in Healdsburg for the last few years of her life.

Madam Speaker, Shannon Boaz was a respected and well loved member of the Healdsburg community who will be missed by her family and friends. It is therefore appropriate that we remember and honor her today.

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HONORING RON EMERZIAN

**HON. GEORGE RADANOVICH**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. RADANOVICH. Madam Speaker, I rise today to commend and congratulate Ron Emerzian upon being named "Citizen of the Year" by the American Legion, Post 74. Mr. Emerzian was recognized on Wednesday, November 11, 2009, at the 62nd annual Citizen of the Year dinner and Veterans Day observance in Modesto, California.

Mr. Ron Emerzian was born and raised in Modesto, California. Upon graduating from Stanford University, he moved back to his hometown. He went to work for E & J Gallo Winery, where his primary focus was on sales and distribution. He also served as the vice president of sales, vice president of organizational development and vice president of corporate giving and community affairs for the company. After 47 years with E & J Gallo Winery, Mr. Emerzian retired.

Since his retirement, Mr. Emerzian has turned his attention to community involvement. He has served as the chairman of the board for several local non-profits, including California State University, Stanislaus, the United Way, YMCA, Stanislaus Partners in Education, and the Education Foundation of Stanislaus County. Currently, Mr. Emerzian serves as the chairman of the United Way Children's Council and the After-school Coalition of Stanislaus. He serves on the board of Save Mart Cares, Juline's Foundation for Children, and the United Samaritans, which serves 35,000 meals to the hungry every month. He is also a member of the Modesto Rotary. Earlier this year, Mr. Emerzian was named chairman of the board for the Gallo Center for the Arts in Modesto.

Mr. Emerzian has been married to Janice for 44 years. They have two sons, Michael and Matthew. Michael attended Stanford and the University of California, Los Angeles, and is currently a physician living in Sacramento with his wife and their two children. Matthew attended the University of California, Los Angeles for his bachelor's degree and his graduate work. He currently lives in Los Angeles and has recently co-authored a book "Every Monday Matters".

Madam Speaker, I rise today to commend and congratulate Ron Emerzian upon being named "Citizen of the Year." I invite my colleagues to join me in wishing Mr. Emerzian many years of continued success.

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HONORING AND CONGRATULATING  
COLONEL DANIEL L. RUBINI

**HON. PATRICK J. MURPHY**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Speaker, I rise today to honor and congratulate my friend Colonel Daniel L. Rubini.

Colonel Daniel L. Rubini, or Larry as we all know him, has dedicated his life to the rule of law, traveling across the globe to help struggling nations, often engulfed in devastating conflicts, establish the fundamental elements of a successful democracy. A 40-year Bucks County resident, Colonel Rubini has lent his expertise and commitment to make life better for veterans and military families across our region, always lending a hand when his brothers and sisters of the Armed Forces find themselves in need.

It's been my privilege to work alongside Colonel Rubini as we fought to finally bring a Veterans Cemetery to Bucks County, an honor long overdue for the veterans of southeastern Pennsylvania. He's been the driving force to clean up the unmarked graves at Washington's Crossing Park to make sure that those first American soldiers get the recognition they deserve. I have been proud to partner with Colonel Rubini to help the men and women of Iraq and Afghanistan who have risked their lives to assist the American military as translators. Those brave souls have no greater advocate than Colonel Rubini, who has helped countless men and women find safe haven from those who seek to harm them because they stood up for their country and fought for democracy. No matter what, Colonel Rubini is always there to make sure returning soldiers receive a warm welcome home, as well as a warm meal.

Colonel Rubini will be receiving the William H. Eastburn III Award from the Bucks County Bar Association for his contributions to the Bucks County judicial system. The award goes to someone who has encouraged a greater respect and understanding for the law, and challenged others to take personal responsibility as citizens.

Colonel Rubini has done great things, not just for this Nation, but for countries throughout the world. He has helped to bring the rule of law to places like Kuwait and Haiti, while continuing to fight for justice in Pennsylvania. He's a true veteran's advocate and I'm proud to call him my friend.

Madam Speaker, I ask that we honor and congratulate Colonel Daniel L. Rubini for his contribution to Bucks County but also to the rest of the world. He's a true American hero.

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WARM WISHES FOR A FULL  
RECOVERY FOR JAMES P. RIDDEL

**HON. GERALD E. CONNOLLY**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, December 3, 2009*

Mr. CONNOLLY of Virginia. Madam Speaker, I rise today to express my warmest wishes

for a full recovery to retired Fairfax County Police Officer, Jim Riddel. Jim retired from the Police Department in 1980 as a Special Police Officer, having spent 20 years protecting Fairfax residents. The Fairfax County Police Department continues to be recognized as one of the best in the nation, so it is no slight to the current and former officers, but instead a true compliment to Jim, that he has been called by a number of sources, the best Detective that the County has ever had. Although Jim has been retired for 19 years, his hard work on behalf of the community continued. Jim was particularly active in organizing the Fairfax County Retired Police Officers Association, providing

a helpful fellowship for retired police officers and their surviving spouses. He remains a tireless community activist, constantly working on behalf of his neighbors. Jim successfully exited surgery today, and I look forward to his speedy convalescence and his return to a lifetime of selfless service to Fairfax County.

# Daily Digest

## Senate

### Chamber Action

*Routine Proceedings, pages S12261–S12354*

**Measures Introduced:** Eleven bills and three resolutions were introduced, as follows: S. 2825–2835, and S. Res. 367–369. **Page S12321**

**Measures Reported:**

S. 372, to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, with an amendment in the nature of a substitute. (S. Rept. No. 111–101)

S. 1353, to amend title 1 of the Omnibus Crime Control and Safe Streets Act of 1986 to include non-profit and volunteer ground and air ambulance crew members and first responders for certain benefits, with an amendment in the nature of a substitute.

**Page S12321**

**Measures Passed:**

*National Miners Day:* Committee on the Judiciary was discharged from further consideration of S. Res. 337, designating December 6, 2009, as “National Miners Day”, and the resolution was then agreed to. **Page S12352**

*Collection for Charitable Purposes in Senate Buildings:* Senate agreed to S. Res. 369, to permit the collection of clothing, toys, food, and housewares during the holiday season for charitable purposes in Senate buildings. **Page S12352**

**Measures Considered:**

**Service Members Home Ownership Tax Act—Agreement:** Senate continued consideration of H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, taking action on the following amendments proposed thereto:

**Pages S12265–S12300, S12301–17**

**Adopted:**

By 61 yeas to 39 nays (Vote No. 355), Mikulski Amendment No. 2791 (to Amendment No. 2786), to clarify provisions relating to first dollar coverage for preventive services for women. (Pursuant to the order of Wednesday, December 2, 2009, the amendment having achieved 60 affirmative votes, was agreed to). **Pages S12265, S12277**

By a unanimous vote of 100 yeas (Vote 357), Bennet Amendment No. 2826 (to Amendment No. 2786), to protect and improve guaranteed Medicare benefits. (Pursuant to the order of Wednesday, December 2, 2009, the amendment having achieved 60 affirmative votes, was agreed to). **Pages S12278–93**

**Withdrawn:**

By 41 yeas to 59 nays (Vote No. 356), Murkowski Amendment No. 2836 (to Amendment No. 2786), to ensure patients receive doctor recommendations for preventive health services, including mammograms and cervical cancer screening, without interference from government or insurance company bureaucrats. (Pursuant to the order of Wednesday, December 2, 2009, the amendment having failed to achieve 60 affirmative votes, be withdrawn). **Pages S12276–77**

By 42 yeas to 58 nays (Vote No. 358), McCain motion to commit the bill to the Committee on Finance, with instructions. (Pursuant to the order of Wednesday, December 2, 2009, the amendment having failed to achieve 60 affirmative votes, be withdrawn). **Pages S12265, S12293–94**

**Pending:**

Reid Amendment No. 2786, in the nature of a substitute. **Pages S12265–S12300, S12301–17**

Whitehouse Amendment No. 2870 (to Amendment No. 2786), to promote fiscal responsibility by protecting the Social Security surplus and CLASS program savings in this Act. **Pages S12303–06**

Hatch motion to commit the bill to the Committee on Finance, with instructions. **Pages S12306–17**

A unanimous-consent agreement was reached providing for further consideration of the bill after any Leader remarks on Friday, December 4, 2009, with debate only in order until 11:30 a.m., with no



amendments, motions to commit, or any other motion, other than a motion to reconsider a vote, if applicable, in order during this period, except those that are currently pending; with the time after the Leader time, equally divided and controlled between the two Leaders, or their designees, with the Majority controlling the first portion of time. **Page S12317**

**Treaty Approved:** The following treaty having passed through its various parliamentary stages, up to and including the presentation of the resolution of ratification, upon division, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification was agreed to:

Protocol Amending Tax Convention with France (Treaty Doc. 111–4) with 1 declaration and 1 condition. **Pages S12350–51**

**Nominations Confirmed:** Senate confirmed the following nominations:

David Morris Michaels, of Maryland, to be an Assistant Secretary of Labor.

Victoria Angelica Espinel, of the District of Columbia, to be Intellectual Property Enforcement Coordinator, Executive Office of the President.

Alan C. Kessler, of Pennsylvania, to be a Governor of the United States Postal Service for a term expiring December 8, 2015.

Lawrence G. Romo, of Texas, to be Director of the Selective Service.

3 Air Force nominations in the rank of general.

5 Army nominations in the rank of general.

5 Navy nominations in the rank of admiral.

Routine lists in the Air Force, Army, and Navy.

**Pages S12351, S12353–54**

**Nominations Received:** Senate received the following nominations:

Donald L. Cook, of Washington, to be Deputy Administrator for Defense Programs, National Nuclear Security Administration.

Malcolm Ross O'Neill, of Virginia, to be an Assistant Secretary of the Army.

Jackalyne Pfannenstiel, of California, to be an Assistant Secretary of the Navy.

Douglas B. Wilson, of Arizona, to be an Assistant Secretary of Defense.

Brooke D. Anderson, of California, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

Brooke D. Anderson, of California, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations, during her tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations.

Rosemary Anne DiCarlo, of the District of Columbia, to be the Deputy Representative of the United States of America to the United Nations, with the rank and status of Ambassador, and the Deputy Representative of the United States of America in the Security Council of the United Nations.

Rosemary Anne DiCarlo, of the District of Columbia, to be Representative of the United States of America to the Sessions of the General Assembly of the United Nations, during her tenure of service as Deputy Representative of the United States of America to the United Nations.

Nancy D. Freudenthal, of Wyoming, to be United States District Judge for the District of Wyoming.

Denzil Price Marshall, Jr., of Arkansas, to be United States District Judge for the Eastern District of Arkansas.

Benita Y. Pearson, of Ohio, to be United States District Judge for the Northern District of Ohio.

**Page S12353**

**Messages from the House:**

**Page S12320**

**Measures Referred:**

**Page S12320**

**Executive Communications:**

**Pages S12320–21**

**Executive Reports of Committees:**

**Pages S12321–22**

**Additional Cosponsors:**

**Pages S12322–23**

**Statements on Introduced Bills/Resolutions:**

**Page S12323–33**

**Additional Statements:**

**Page S12319**

**Amendments Submitted:**

**Pages S12333–49**

**Authorities for Committees to Meet:**

**Pages S12349–50**

**Privileges of the Floor:**

**Page S12350**

**Record Votes:** Four record votes were taken today. (Total—358)

**Pages S12277, S12293**

**Adjournment:** Senate convened at 9:30 a.m. and adjourned at 8:32 p.m., until 9:30 a.m. on Friday, December 4, 2009. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S12353.)

## Committee Meetings

(Committees not listed did not meet)

### NOMINATION

*Committee on Banking, Housing, and Urban Affairs:* Committee concluded a hearing to examine the nomination of Ben S. Bernanke, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System, after the nominee testified and answered questions in his own behalf.

**BUSINESS MEETING**

*Committee on Commerce, Science, and Transportation:* Committee ordered favorably reported the nominations of Mark R. Rosekind, of California, to be a Member of the National Transportation Safety Board, Scott Boyer Quehl, of Pennsylvania, to be Chief Financial Officer and Assistant Secretary, and Suresh Kumar, of New Jersey, to be Assistant Secretary and Director General of the United States and Foreign Commercial Service, both of the Department of Commerce, Philip E. Coyle III, of California, to be an Associate Director of the Office of Science and Technology Policy, and Anthony R. Coscia, of New Jersey, and Albert DiClemente, of Delaware, both to be a Director of the Amtrak Board of Directors for the remainder of the term expiring July 26, 2011.

**AMERICAN MEDICAL ISOTOPES PRODUCTION ACT**

*Committee on Energy and Natural Resources:* Committee concluded a hearing to examine H.R. 3276, to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes, after receiving testimony from Parrish Staples, Director, Office of European and African Threat Reduction, Global Threat Reduction Initiative, National Nuclear Security Administration, Department of Energy; Kevin D. Crowley, Nation Research Council of the National Academies, Washington, D.C.; and Roy Brown, Council on Radionuclides and Radiopharmaceuticals (CORAR), St. Louis, Missouri.

**NATIONAL PARKS BILLS**

*Committee on Energy and Natural Resources:* Subcommittee on National Parks concluded a hearing to examine S. 760, to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the "National World War I Memorial", S. 1838, to establish a commission to commemorate the sesquicentennial of the American Civil War, S. 2097, to authorize the rededication of the District of Columbia War Memorial as a National and District of Columbia World War I Memorial to honor the sacrifices made by American veterans of World War I, S. 2722, to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of adding the Heart Mountain Relocation Center, in the State of Wyoming, as a unit of the National Park System, S. 2726, to modify the boundary of the Minuteman Missile National Historic Site in the State of South Dakota, S. 2738, to authorize National Mall Liberty Fund D.C. to establish a memorial on Federal land in the District of Columbia to honor free persons

and slaves who fought for independence, liberty, and justice for all during the American Revolution, H.R. 1849, to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial, to establish the World War I centennial commission to ensure a suitable observance of the centennial of World War I, and H.R. 3689, to provide for an extension of the legislative authority of the Vietnam Veterans Memorial Fund, Inc. to establish a Vietnam Veterans Memorial visitor center, after receiving testimony from Senators Rockefeller, Thune, and Webb; Representative Cleaver; Katherine H. Stevenson, Assistant Director, Business Services, National Park Service, Department of the Interior; Harry G. Robinson III, Vietnam Veterans Memorial Fund, Edwin L. Fountain, World War I Memorial Foundation, and Maurice A. Barboza, Liberty Fund D.C., all of Washington, D.C.; David Madden, Louisiana State University United States Civil War Center, Black Mountain, North Carolina; and Brian Alexander, National World War I Museum at Liberty Memorial, Kansas City, Missouri.

**WATER AND WILDLIFE BILLS**

*Committee on Environment and Public Works:* Subcommittee on Water and Wildlife concluded a hearing to examine S. 373, to amend title 18, United States Code, to include constrictor snakes of the species Python genera as an injurious animal, S. 1519, to provide for the eradication and control of nutria in Maryland, Louisiana, and other coastal States, S. 1421, to amend section 42 of title 18, United States Code, to prohibit the importation and shipment of certain species of carp, S. 1965, to authorize the Secretary of the Interior to provide financial assistance to the State of Louisiana for a pilot program to develop measures to eradicate or control feral swine and to assess and restore wetlands damaged by feral swine, H.R. 2188, to authorize the Secretary of the Interior, through the United States Fish and Wildlife Service, to conduct a Joint Venture Program to protect, restore, enhance, and manage migratory bird populations, their habitats, and the ecosystems they rely on, through voluntary actions on public and private lands, S. 1214, to conserve fish and aquatic communities in the United States through partnerships that foster fish habitat conservation, to improve the quality of life for the people of the United States, H.R. 3537, to amend and reauthorize the Junior Duck Stamp Conservation and Design Program Act of 1994, H.R. 3433, to amend the North American Wetlands Conservation Act to establish requirements regarding payment of the non-Federal share of the costs of wetlands conservation projects in Canada that are funded under that Act, and H.R.

509, to reauthorize the Marine Turtle Conservation Act of 2004, after receiving testimony from Senator Levin; Dan Ashe, Deputy Director, U.S. Fish and Wildlife Service, Department of the Interior; Edmond Mouton, Louisiana Department of Wildlife & Fisheries, New Iberia; Eric C. Schwaab, Maryland Department of Natural Resources, Annapolis, on behalf of the Association of Fish and Wildlife Agencies; Robert L. Bendick, The Nature Conservancy, Arlington, Virginia; and Gordon Roberston, American Sportfishing Association, Alexandria, Virginia.

#### AFGHANISTAN

*Committee on Foreign Relations:* Committee concluded a hearing to examine Afghanistan, focusing on assessing the road ahead, after receiving testimony from Hillary Rodham Clinton, Secretary of State; and Robert M. Gates, Secretary, and Admiral Michael G. Mullen, USN, Chairman of the Joint Chiefs of Staff, both of the Department of Defense.

#### NOMINATION

*Committee on Homeland Security and Governmental Affairs:* Committee concluded a hearing to examine the nomination of Caryn A. Wagner, of Virginia, to be Under Secretary of Homeland Security for Intelligence and Analysis, after the nominee testified and answered questions in her own behalf.

#### BUSINESS MEETING

*Committee on Indian Affairs:* Committee ordered favorably reported the following business items:

S. 1790, to amend the Indian Health Care Improvement Act to revise and extend that Act, with amendments;

S. 1635, to establish an Indian Youth telemental health demonstration project, to enhance the provision of mental health care services to Indian youth, to encourage Indian tribes, tribal organizations, and other mental health care providers serving residents of Indian country to obtain the services of predoctoral psychology and psychiatry interns, with amendments; and

S. 633, to establish a program for tribal colleges and universities within the Department of Health and Human Services and to amend the Native American Programs Act of 1974 to authorize the provision of grants and cooperative agreements to tribal colleges and universities, with an amendment.

#### INDIAN HEALTH CARE IMPROVEMENT REAUTHORIZATION AND EXTENSION ACT

*Committee on Indian Affairs:* Committee concluded an oversight hearing to examine S. 1790, to amend the

Indian Health Care Improvement Act to revise and extend that Act, after receiving testimony from Ronald L. Tankersley, American Dental Association, Newport News, Virginia; Evangelyn Dotomain, Alaska Native Health Board, Anchorage; and Patricia Tarren, Hennepin County Medical Center, Minneapolis, Minnesota.

#### CONTRACT HEALTH SERVICES

*Committee on Indian Affairs:* Committee concluded an oversight hearing to examine Contract Health Services, after receiving testimony from Yvette Roubideaux, Director, Indian Health Service, Department of Health and Human Services; Connie Whidden, Seminole Tribe of Florida, Hollywood; and Mickey Peercy, Choctaw Nation of Oklahoma, Durant.

#### BUSINESS MEETING

*Committee on the Judiciary:* Committee ordered favorably reported the following business items:

S. 1353, to amend title 1 of the Omnibus Crime Control and Safe Streets Act of 1986 to include non-profit and volunteer ground and air ambulance crew members and first responders for certain benefits, with an amendment in the nature of a substitute; and

The nominations of Thomas I. Vanaskie, of Pennsylvania, to be United States Circuit Judge for the Third Circuit, and Louis B. Butler, Jr., to be United States District Judge for the Western District of Wisconsin, and Susan B. Carbon, of New Hampshire, to be Director of the Violence Against Women Office, John H. Laub, of the District of Columbia, to be Director of the National Institute of Justice, Sharon Jeanette Lubinski, to be United States Marshal for the District of Minnesota, Mary Elizabeth Phillips, to be United States Attorney for the Western District of Missouri, Sanford C. Coats, to be United States Attorney for the Western District of Oklahoma, and Stephen James Smith, to be United States Marshal for the Southern District of Georgia, all of the Department of Justice.

#### INTELLIGENCE

*Select Committee on Intelligence:* Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to the call.

# House of Representatives

## Chamber Action

**Public Bills and Resolutions Introduced:** 23 public bills, H.R. 4189–4211; 1 private bill, H.R. 4212; and 8 resolutions, H. Con. Res. 217, and H. Res. 943–949, were introduced. **Pages H13519–20**

**Additional Cosponsors:** **Pages H13520–21**

**Reports Filed:** Reports were filed today as follows:

H.R. 2652, to amend title 46, United States Code, to improve vessel safety, with an amendment (H. Rept. 111–351);

H.R. 2650, to amend title 14, United States Code, to modernize the leadership of the Coast Guard and to modernize the administration of marine safety by the Coast Guard (H. Rept. 111–352);

H.R. 3224, to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct a vehicle maintenance building at the vehicle maintenance branch of the Smithsonian Institution located in Suitland, Maryland (H. Rept. 111–276, Pt. 2); and

H.R. 3542, to direct the Architect of the Capitol to fly the flag of a State over the Capitol each year on the anniversary of the date of the State's admission to the Union, with an amendment (H. Rept. 111–353). **Page H13519**

**Speaker:** Read a letter from the Speaker wherein she appointed Representative Pastor to act as Speaker pro tempore for today. **Page H13469**

**Journal:** The House agreed to the Speaker's approval of the Journal by a recorded vote of 250 ayes to 169 noes with 1 voting "present", Roll No. 925. **Pages H13469, H13480–81**

**Suspensions—Proceedings Resumed:** The House agreed to suspend the rules and pass the following measures which were debated on Wednesday, December 2nd:

*Expressing the sense of the House of Representatives that the Transportation Security Administration should enhance security against terrorist attack and other security threats to our Nation's rail and mass transit lines:* H. Res. 28, amended, to express the sense of the House of Representatives that the Transportation Security Administration should, in accordance with the congressional mandate provided for in the Implementing Recommendations of the 9/11 Commission Act of 2007, enhance security against terrorist attack and other security threats to our Nation's rail and mass transit lines, by a  $\frac{2}{3}$  yeas-and-nay vote of 417 yeas to 3 noes, Roll No. 926 and **Pages H13481–82**

Agreed to amend the title so as to read: "Expressing the sense of the House of Representatives that the Transportation Security Administration should, in accordance with the congressional mandate provided for in the Implementing Recommendations of the 9/11 Commission Act of 2007 as well as other statutes, enhance security against terrorist attack and other security threats to our Nation's rail and mass transit systems and other modes of surface transportation." **Page H13482**

*Satellite Home Viewer Update and Reauthorization Act of 2009:* H.R. 3570, amended, to amend title 17, United States Code, to reauthorize the satellite statutory license and to conform the satellite and cable statutory licenses to all-digital transmissions, by a  $\frac{2}{3}$  yeas-and-nay vote of 394 yeas to 11 noes, Roll No. 930. **Pages H13494–95**

Agreed to amend the title so as to read: "To extend the statutory license for secondary transmissions under title 17, United States Code, and for other purposes." **Page H13495**

*Permanent Estate Tax Relief for Families, Farmers, and Small Businesses Act of 2009:* The House passed H.R. 4154, to amend the Internal Revenue Code of 1986 to repeal the new carryover basis rules in order to prevent tax increases and the imposition of compliance burdens on many more estates than would benefit from repeal and to retain the estate tax with a \$3,500,000 exemption, by a yeas-and-nay vote of 225 yeas to 200 noes, Roll No. 929. **Pages H13482–94**

Agreed to table the appeal of the ruling of the chair on a point of order sustained against the Heller motion to recommit the bill to the Committee on Ways and Means with instructions to report the same back to the House forthwith with an amendment, by a yeas-and-nay vote of 234 yeas to 186 noes, Roll No. 927. **Pages H13491–92**

Rejected the second Heller motion to recommit the bill to the Committee on Ways and Means with instructions to report the same back to the House forthwith with an amendment, by a recorded vote of 187 yeas to 233 noes, Roll No. 928. **Page H13492**

Pursuant to section 2 of the rule, in the engrossment of H.R. 4154, the Clerk shall (1) add the text of H.R. 2920, as passed by the House, as new matter at the end of H.R. 4154; (2) conform the title of H.R. 4154 to reflect the addition to the engrossment of the text of H.R. 2920; (3) assign appropriate designations to provisions within the engrossment; and (4) conform provisions for short titles within the engrossment.

H. Res. 941, the rule providing for consideration of the bill, was agreed to by a recorded vote of 223 ayes to 192 noes, Roll No. 924, after the previous question was ordered by a yea-and-nay vote of 228 yeas to 187 nays, Roll No. 923. **Pages H13472–80**

**Meeting Hour:** Agreed that when the House adjourns today, it adjourn to meet at 10:30 a.m. on Monday, December 7th for morning hour debate.

**Page H13499**

**Quorum Calls—Votes:** Five yea-and-nay votes and three recorded votes developed during the proceedings of today and appear on pages H13479–80, H13480, H13481, H13481–82, H13491–92, H13493–94, H13494, and H13494–95. There were no quorum calls.

**Adjournment:** The House met at 10 a.m. and adjourned at 6:15 p.m.

## *Committee Meetings*

### **AGRICULTURE OFFSETS—COSTS AND BENEFITS**

*Committee on Agriculture:* Subcommittee on Conservation, Credit, Energy, and Research held a hearing to review the costs and benefits of agriculture offsets. Testimony was heard from Joseph Glauber, Chief Economist, USDA; Joseph Kile, Assistant Director, Microeconomic Studies, CBO; and public witnesses.

### **AFGHANISTAN STRATEGIC REVIEW**

*Committee on Armed Services:* Held a hearing on Afghanistan: The Results of the Strategic Review, Part I. Testimony was heard from the following officials of the Department of Defense: Robert M. Gates, Secretary; and ADM. Michael G. Mullen, USN, Chairman, Joint Chiefs of Staff; and Jacob J. Lew, Deputy Secretary, Management and Resources, Department of State.

### **CALLING CARD CONSUMER PROTECTION ACT**

*Committee on Energy and Commerce:* Subcommittee on Commerce, Trade, and Consumer Protection held a hearing on H.R. 3993, Calling Card Consumer Protection Act. Testimony was heard from Lois Greisman, Director, Division of Marketing Practices, FTC; Patricia Acampora, Commissioner, Public Service Commission, New York State; and public witnesses.

### **INTERNET GAMBLING ENFORCEMENT/REGULATION**

*Committee on Financial Services:* Held a hearing on the following bills: H.R. 2266, Reasonable Prudence in Regulation Act; and H.R. 2267, Internet Gambling

Regulation, Consumer Protection, and Enforcement Act. Testimony was heard from public witnesses.

### **SUDAN—U.S. POLICY REVIEW**

*Committee on Foreign Affairs:* Subcommittee on Africa and Global Health held a hearing on Sudan: A review of the Administrations's New Policy and A Situation Update. Testimony was heard from MG Scott Gration, USAF (ret.), U.S. Special Envoy, Republic of Sudan, Department of State; and public witnesses.

### **U.S. SECRET SERVICE AND PRESIDENTIAL PROTECTION**

*Committee on Homeland Security:* Held a hearing entitled "The United States Secret Service and Presidential Protection: An Examination of a System Failure." Testimony was heard from Mark J. Sullivan, Director, U.S. Secret Service, Department of Homeland Security.

### **DEPARTMENT OF JUSTICE—CIVIL RIGHTS DIVISION**

*Committee on the Judiciary:* Subcommittee on the Constitution, Civil Rights, and Civil Liberties held a hearing on the Civil Rights Division of the Department of Justice. Testimony was heard from Thomas E. Perez, Assistant Attorney General, Civil Rights Division; Eileen Regen Larence, Director, Homeland Security and Justice Issues, GAO; Grace Chung Becker, former Acting Assistant Attorney General, Civil Rights Division, Department of Justice; and a public witness.

### **NEW ORLEANS POST-KATRINA HEALTH CARE CHALLENGES**

*Committee on Oversight and Government Reform:* Held a hearing entitled "Post-Katrina Recovery: Restoring Health Care in the New Orleans Region." Testimony was heard from Cynthia A. Bascetta, Director, Health Care, GAO; Marcia K. Brand, M.D., Deputy Administration, Health Resources and Services Administration, Department of Health and Human Services; from the following officials of the State of Louisiana: Alan Levine, Secretary, Department of Health and Hospitals; Joia Crear-Perry, M.D., Director, Clinical Services, Health Department, City of New Orleans; and public witnesses.

### **MARINE/HYDROKINETIC ENERGY TECHNOLOGY**

*Committee on Science and Technology:* Subcommittee on Energy and Environment held a hearing on Marine and Hydrokinetic Energy Technology: Finding the Path to Commercialization. Testimony was heard

from Jacques Beaudry-Losique, Deputy Assistant Secretary, Renewable Energy, Office of Energy Efficiency and Renewable Energy, Department of Energy; and public witnesses.

#### NASA—INDEPENDENT AUDIT

*Committee on Science and Technology:* Subcommittee on Investigations and Oversight and the Subcommittee on Space and Aeronautics held a joint hearing on Independent Audit of the National Aeronautics and Space Administration. Testimony was heard from the following officials of the NASA: Thomas Howard, Acting Inspector General; and Elizabeth Robinson, Chief Financial Officer; and a public witness.

#### NRO FACILITY UPDATE

*Permanent Select Committee on Intelligence:* Subcommittee on Technical and Tactical Intelligence met in executive session to receive a briefing on NRO Facility Update. The Subcommittee was briefed by departmental witnesses.

### *Joint Meetings*

No joint committee meetings were held.

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#### COMMITTEE MEETINGS FOR FRIDAY, DECEMBER 4, 2009

*(Committee meetings are open unless otherwise indicated)*

##### Senate

No meetings/hearings scheduled.

##### House

No committee meetings are scheduled.

##### Joint Meetings

*Joint Economic Committee:* to hold hearings to examine the employment situation for November 2009, 9:30 a.m., SH-216.



*Next Meeting of the SENATE*

9:30 a.m., Friday, December 4

*Next Meeting of the HOUSE OF REPRESENTATIVES*

10:30 a.m., Monday, December 7

## Senate Chamber

**Program for Friday:** Senate will continue consideration of H.R. 3590, Service Members Home Ownership Tax Act.

## House Chamber

**Program for Monday:** To be announced.

## Extensions of Remarks, as inserted in this issue

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