Now, that is not what I am saying; that is what they say. So I think the President made a very persuasive case that the infrastructure of al-Qaida in Iraq is very much tied to the bin Laden organization. If you don't believe that, come down and let's have a debate about it.

Who else is our enemy in Iraq? Iran. This body passed unanimously a resolution authored by Senator LIEBERMAN during the Defense authorization debate, and part of that resolution was a laundry list of activity by Iran, particularly the Quds Force, part of the Revolutionary Guard, in terms of trying to kill Americans in Iraq and destabilize the efforts of building a democracy in Iraq. On February 11, 2007, the U.S. military held a briefing in Baghdad at which its representatives stated that at least 170 members of the U.S. Armed Forces have been killed and at least 620 wounded by weapons tied to Iran.

This resolution which we passed was a damning indictment of Iran's involvement in Iraq about training, providing funds, providing weaponry, and bringing Hezbollah agents from Lebanon into Iraq to try to assist extremist groups whose goal it is to kill Americans and to destabilize this effort of democracy.

Now, why does al-Qaida come to Iraq? I said before that their biggest nightmare is a moderate form of government where Sunnis and Shias and Kurds and all different groups could live together, accepting their differences, where a woman could have a say about her children by being able to run for office and vote and have a strong voice in society. That is their worst nightmare.

Whether we should have gone to Iraq or not is a historical debate. We have made plenty of mistakes after the fall of Baghdad. But the biggest mistake would be not to recognize that Iraq is part of a global struggle. There are sectarian conflicts in Iraq; I acknowledge that. There has been a major failure of political reconciliation; I acknowledge that. The old strategy was not working; I acknowledged that 2 or 3 years ago. The new strategy is providing dividends in terms of defeating al-Qaida in Iraq. The Iraqi people in the Sunni areas have turned against al-Qaida in Iraq. That is good news. Political reconciliation is occurring at the local provincial level. I hope it works its way up.

Another aspect of Iraq, to me, which is undeniable—and I understand the challenges, and I think I see the successes for what they are—is that the Iranian Government's involvement in Iraq is major. It is substantial. It is designed to break our will. Their efforts include killing our troops, and they are there to make sure this experiment in democracy fails because Iran's worst nightmare is to have a functioning democracy on their border.

So this is part of a global struggle, and the outcome will create momentum one way or the other. I hope the outcome will be a success for moderation and a defeat of extremism.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. All time has expired. Morning business is closed.

SMALL BUSINESS TAX RELIEF ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 976, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 976) to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

Pending:

Baucus amendment No. 2530, in the nature of a substitute.

Grassley (for Ensign) amendment No. 2538 (to amendment No. 2530), to amend the Internal Revenue Service Code of 1986 to create a Disease Prevention and Treatment Research Trust Fund.

Bunning amendment No. 2547 (to amendment No. 2530), to eliminate the exception for certain States to cover children under SCHIP whose income exceeds 300 percent of the Federal poverty level.

Dorgan amendment No. 2534 (to amendment No. 2530), to revise and extend the Indian Health Care Improvement Act.

Gregg amendment No. 2587 (to amendment No. 2530), to limit the matching rate for coverage other than for low-income children or pregnant women covered through a waiver and to prohibit any new waivers for coverage of adults other than pregnant women.

The ACTING PRESIDENT pro tempore. Under the previous order, there is now 30 minutes of debate equally divided prior to a vote in relation to amendment No. 2538.

Who yields time? The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, the bill before us today would reauthorize SCHIP for 5 years with a $35 billion expansion in spending. But because of the way the budget gimmicks were worked in this bill, it is actually an expansion of somewhere around $110 billion.

This expansion, or at least part of it, is going to be funded by an increase in the Federal tobacco tax by 61 cents per pack and up to $10 per cigar. The problem with the funding mechanism in this bill, the way I see it, is that for the funding to still be there, we actually need to encourage people to smoke. Today, in our health care system, smokers contribute to a lot of diseases and this imposes large costs. In the future, as we raise the price of tobacco, fewer people smoking will mean less revenue. The proposal to fund the SCHIP expansion will yield diminishing returns. In the future, the tobacco tax will not adequately pay for the spending that is provided for in this bill.

This bill greatly increases dependency on the Federal Government and the dependency of the Federal Government on this tobacco tax revenue. The expansions included in this bill will have little bang for the buck in terms of reducing the ranks of the uninsured. As more money is poured into expanding SCHIP, less of the new funds will go to providing coverage to low-income children who currently go without coverage. SCHIP expansion will only serve to coax individuals and families out of the private insurance market and into Government coverage.

Undermining private health insurance coverage by creating more Government dependence is not an effective way to address shortfalls in coverage. We should have more of a comprehensive approach. This approach should include fiscal discipline, not more taxes and higher spending. We should be working to strengthen private sector health insurance options and increase parental choice and responsibility.

My amendment, however, will not address taking a more comprehensive approach to coverage. We will have other amendments during this debate that will address more of a comprehensive approach to insurance coverage.

I strongly believe in the role of Federal Government plays in promoting basic research. Some have noted that an increase in the tobacco tax should be used to fund the costs that tobacco imposes on our society. I agree with that. My amendment would establish a trust fund that will be known as the Disease Prevention and Treatment Research Trust Fund. The revenue from increased tobacco tax rates in the underlying bill will be transferred to this trust fund. From there, the dollars will be made available to fund research on diseases that are often associated with tobacco use.

I also believe the chronic underfunding of research in areas such as pediatric cancer need to be addressed, so I have expanded the permissible use of these funds to cover research on other diseases as well. I urge my colleagues to support my amendment to help discover new knowledge and treatments that improve and save lives.

Our current health care system is a sick care system. We do not spend nearly as much money on prevention as we do on getting people healthy once they are sick. This trust fund will fund research into areas to keep people healthy, to make sure we are spending money on disease research that actually keeps people out of hospitals, that keeps people as healthy as possible for as long as possible throughout their lives. I think this is a better use of taxpayers' dollars, especially when we are going to be raising those taxes on people who smoke. Let's use that money to fund disease research instead of taking people from the private health market onto the Government-funded health market.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, it is important to look at what this amendment actually does. It is a remarkable amendment. What does it do? It would try to spend the same dollar twice, take a dollar from tobacco taxes, spend it in the trust fund and spend it on CHIP—doing two things at once. I don't think we can do that in the real world. It is too good to be true. We can't do it. That is what the amendment says, basically. I do not think the Senator wants to take money away from kids, from the CHIP fund, the CHIP program. The amendment doesn't say that. I am sure he doesn't intend to do that. But what the amendment does say is the same dollars are going to be spent twice—one way we spend it is for this trust fund, the other way is we spend it on kids. I don't know how we do that; how in the real world we can do that. It is fantasy land. We can't do it.

Again, surely the Senator does not want to repeal the entire Children's Health Insurance Program. I am sure he doesn't want to do that. He does not do that in this amendment. But he still sets up the tension between the two, between research and all the good causes the Senator talks about on the one hand, and children's health insurance on the other, pitting one against the other. I don't think he wants to do that. He does not do that directly but he does that indirectly by trying to spend the same dollar twice. That might be possible in Hogwarts; it might be possible in Harry Potter's world. But I don't think it is possible in the real world.

Back here in the real world I want Senators to know this amendment is a thinly veiled attempt to steal the funding from the children's health care program. It is an attempt to undermine children's health care coverage. That is what this bill does. It takes a dollar from the tobacco tax—it is amazing—and that dollar is going to be spent on this trust fund and that same dollar is going to be spent on children's health care. We can't do that.

I urge my colleagues to reject the amendment.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, our amendment clearly takes the money from the increase in the tobacco tax, and instead of dedicating to the expansion of SCHIP, puts it into a disease research trust fund. SCHIP is still authorized; we don't do anything to the underlying program that currently exists. We take the money out of the expansion, this is tobacco tax money out of the expansion, and we apply it to the trust fund to be used for disease research. That is what this bill does. That is what the amendment does.

Mr. BAUCUS. Will the Senator yield for a question on that one point?

Mr. ENSIGN. Yes, but let me explain it.

Mr. BAUCUS. I will take it on our time.

Mr. ENSIGN. Let me explain it to you and then I will yield for a question. It says:

> There are hereby appropriated to the Disease Prevention and Treatment Reserve Trust Fund—

which we are talking about here,

> —amounts equivalent to the taxes received in the Treasury attributable to the amendments made by section 701. . . .

That is the tobacco taxes. We are taking the tobacco taxes, which would fund part of the increase the SCHIP expansion, and apply it to the Disease Prevention and Treatment Research Trust Fund. We are not taking money out of the trust fund; it is the revenues generated from the expansion of the tobacco tax from which we are taking the money.

Mr. BAUCUS. So the Senator wishes to take all the tobacco taxes in the underlying amendment, take all those dollars away from kids?

Mr. ENSIGN. That is not exactly right.

Mr. BAUCUS. It is exactly right.

Mr. ENSIGN. As you heard in my statement, pediatric cancer research is underfunded.

Mr. BAUCUS. No, take it from the Children's Health Insurance Program.

Mr. ENSIGN. We are taking it from the expansion, which is not just children. We are going to have other amendments to make sure the prioritization is on low-income kids. Part of the expansion is in States where the folks being covered are not just those under 200 percent of the poverty level. The expansion of SCHIP has been part of the problem. I believe in actually covering everybody, but doing it in a way that is different than the approach in the bill. What we want to do is take the tobacco taxes and take those funds that are raised by the tobacco taxes and dedicate those funds to disease research. The budget gimmicks used in the SCHIP expansion are so phony that it is ridiculous, some of the worst I have seen around here. These gimmicks assume these folks are going away in a few years, that they are not going to be on the program at the end of the 5-year reauthorization. This is how they got the SCHIP expansion to meet pay-go requirements.

But we say let's take the money and put it in a trust fund and with those real dollars that are in the trust fund, we are going to fund disease research that will help children, that will help adults, that will help all Americans.

Mr. BAUCUS. Will the Senator yield for another question again, again on my time?

Mr. ENSIGN. Yes.

Mr. BAUCUS. I don't mean to be condescending here, but has the Senator read the CBO analysis? I am sure he has. And, having read that, isn't it clear that a large share of the dollars in this bill from the tobacco tax are to maintain current coverage? That is, if we do not provide the $35 billion in this bill, that is the funds from the tobacco tax, that many kids are going to lose coverage? In fact, isn't it true that CBO says about 1.4 million children will lose coverage—not just maintain, but lose coverage if we do not have this bill?

Mr. ENSIGN. That is exactly why I believe in a comprehensive approach to solve the problem we have in the country. You do not take care of all of the children in America in this bill.

Mr. BAUCUS. Of course not.

Mr. ENSIGN. I believe in taking a more comprehensive approach that actually doesn't increase the dependence on the Government. I am addressing something different with this amendment. What I believe is we should do this amendment to fund disease prevention research, but then do a comprehensive approach that takes care of kids, that takes care of those uninsured adults, that gets them into the private insurance market. The more people, especially a lot of younger people, healthier people who are currently uninsured, whom we get into the private health insurance markets—the more the better. There are several proposals out there, whether it is tax credits or tax deductions; there is a blend of the two that has been talked about. We need to explore those because if we are doing it in a way that will take care of the uninsured, we bring in the folks who are healthier which will bring down the cost of health care insurance for all Americans.

That is the direction we should be going. SCHIP will take people out of the private insurance market. The program, the expansion you have done—and this is according to CBO—will take children who are currently in the private health insurance market and it will move them to Government programs. There will be a great incentive in the future to do more and more of this.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I think it is important to talk about the amendment, not all these other very important points with respect to health care. The effect of this amendment, the way it is written, will be to spend the same dollar twice. If the effect is what the Senator says it is, and he intends it—although that is not the amendment—if he intends to have all additional tobacco taxes go to the trust fund, then the net effect of this amendment is about 1.4 million American low-income kids will lose coverage. That is CBO. They will lose it, if that is the intent of the amendment.

The actual effect of the amendment the way it is written is the dollars have to be spent twice. We can't do that. I don't know how we do that. But, again, if the intent of the amendment is dollars do not go to kids, then the effect of the amendment is about 1.4 million

children will lose health insurance coverage; that is 5.7 million fewer kids will be covered under insurance than under our amendment.

In the Senator's own statements, he admits it. He apparently does not want to add dollars, he wants to take away the $35 billion raised by the tobacco tax and the honest effect of that $35 billion is to help prevent about 1.4 million kids from losing coverage as well as adding additional coverage. It is both. If the amendment is what the Senator wants it to do and says it is, then about 1.4 million kids will lose coverage.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, to be clear, this amendment funds cancer research, including:

. . . pediatric, lung, breast, ovarian, uterine, prostate, colon, rectal, oral, skin, bone, kidney, liver, stomach, bladder—

any kind of cancer you can think of.

Respiratory diseases . . . chronic obstructive pulmonary disease—

We hear so much about that today.

—tuberculosis, bronchitis, asthma and emphysema. All the related problems we see so much with smoking: ''Cardiovascular diseases''—a huge killer in the United States with huge costs to our health care system. We are going to fund a lot more research with this money. I think this money is going to some very good things in America, things that will benefit not just children but will benefit all Americans. It doesn't spend the money twice as I pointed out. It takes the money from the expansion and actually spends it, I believe, in more appropriate areas. Then, later in the bill, we are going to be offering some alternatives that will make sure the kids are covered and we will be looking at some other alternatives to do more comprehensive care.

I urge my colleagues to support this amendment.

Have the yeas and nays been ordered?

The ACTING PRESIDENT pro tempore. They have not.

Mr. ENSIGN. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ENSIGN. Mr. President, I ask unanimous consent to have a letter from Dr. Neal Birnbaum, president of the American College of Radiology, printed at the end of my remarks on amendment No. 2538. The letter expresses support for my amendment, which would use the tobacco tax increase to fund research on diseases that are often associated with tobacco use, including arthritis.

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

AUGUST 1, 2007

Hon. JOHN ENSIGN,
U.S. Senate,
Washington, DC.

DEAR SENATOR ENSIGN: The American College of Rheumatology greatly appreciates your leadership and amendment of the Internal Revenue Code of 1986 to create a Disease Prevention and Treatment Research Trust Fund (H.R. 976). This piece of legislation is of vital importance to the rheumatology community.

Arthritis currently affects over 46 million Americans, including 300,000 children. It is the nation's leading cause of disability and cost the U.S. economy approximately $128 billion annually in medical costs and lost productivity.

We appreciate your efforts in bring forth this amendment that would use the tobacco tax increase to fund research on diseases that are often associated with tobacco use such as arthritis. This is a disease that has been chronically underfunded.

We will send supporting materials in the coming days regarding the increased prevalence of Rheumatoid Arthritis in smokers.

Sincerely,

NEAL BIRNBAUM, MD,
President,
American College of Rheumatology.

Mr. ENSIGN. I am willing to yield back time so we can get back on schedule for a 10:30 vote, if that will be OK with the Senator?

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. I don't want to belabor the point. Some of the points the Senator makes are very good. Sure, he wants to do more research, but still the fact is the amendment takes dollars away from kids, away from the Children's Health Insurance Program.

In the children's health care program, 1.4 million American children will lose coverage under the Senator's amendment. That is CBO, that is not me. That is CBO. I do not think we want to take away our current coverage under the program.

One minor point that is not relevant to the amendment, but is relevant to the bill, is the Senator talks a little about something called crowd-out; that is, the number of kids who might not have private coverage who move to the CHIP program. That happens in every single program.

Do you know what the crowd-out estimate was with the Medicare Modernization Act, Part D? It was 75 percent. That was the estimate on how much crowd-out there would be for that legislation, which this body strongly supported. It actually turned out to be much less than that.

When this program was initially enacted in 1997, the Children's Health Insurance Program, CBO estimated crowd-out to be 70 percent. It was much less than that. We have asked the CBO Director to design this legislation to minimize crowd-out as well as we possibly can. And he, in testimony before the committee, said: You have done a very efficient job to minimize so-called crowd-out.

So we are cognizant of the point. But the main point is to get more health insurance coverage for kids. That is what the underlying bill does.

Mr. President, I yield back the remainder of our time.

The ACTING PRESIDENT pro tempore. All time is yielded back.

The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. CARPER), the Senator from South Dakota (Mr. JOHNSON), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Missouri (Mrs. MCCASKILL), amd the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. CARPER), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Missouri (Mrs. MCCASKILL) would each vote ''nay.''

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. COBURN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Arizona (Mr. MCCAIN), the Senator from Alaska (Mr. STEVENS), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Virginia (Mr. WARNER).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''nay.''

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

The result was announced—yeas 26, nays 58, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—26

Allard	DeMint	Kyl
Barrasso	Dole	Lott
Bennett	Domenici	Martinez
Bunning	Ensign	McConnell
Burr	Enzi	Sessions
Chambliss	Graham	Shelby
Cornyn	Gregg	Thune
Craig	Inhofe	Vitter
Crapo	Isakson	

NAYS—58

Alexander	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Grassley	Obama
Biden	Hagel	Pryor
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hutchison	Roberts
Brown	Inouye	Salazar
Byrd	Kennedy	Sanders
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Smith
Casey	Kohl	Snowe
Clinton	Lautenberg	Specter
Cochran	Leahy	Stabenow
Collins	Lincoln	Tester
Conrad	Lugar	Webb
Corker	Menendez	Whitehouse
Dodd	Mikulski	Wyden
Dorgan	Murkowski	
Durbin	Murray	

NOT VOTING—16

Akaka	Coleman	Lieberman
Brownback	Johnson	McCain
Carper	Landrieu	
Coburn	Levin	

McCaskill	Stevens	Voinovich
Rockefeller	Sununu	Warner

The amendment (No. 2538) was rejected.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Ms. LANDRIEU. Will the Senator from Montana yield?

Mr. BAUCUS. I do.

The PRESIDING OFFICER. The Senator from Louisiana.

VOTE EXPLANATIONS

Ms. LANDRIEU. Mr. President, I missed the previous vote because we were in a markup in committee. About six other Members did as well. Could I please be recorded as having voted no? If I were here, I would have voted no on the previous amendment.

Mr. WARNER. I was likewise in the committee when we were informed by the chairman and ranking member that we had an extra minute to finish the markup. But the best I can do is add, if I were present, I would have voted no.

Mr. LEVIN. Mr. President, I was in a similar situation. I would have voted no had I been here. I was also in the same committee meeting.

Mr. VOINOVICH. Mr. President, I had the same problem the other Members had. If I were here, I would have voted no.

The PRESIDING OFFICER. Without objection, it will be so ordered.

Mr. COBURN. Mr. President, as a member of the Homeland Security Committee, we were advised that we would be given leniency on this vote through our chairman, through communication, I assumed, from leadership staff. We did not come on a timely basis. I would like to be recorded as aye. It will not make a difference in the vote.

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

Mr. COLEMAN. Mr. President, I was also in Homeland Security. We were advised by the chair that we would be able to make the vote. Obviously, we weren't. I would like to be recorded as voting no.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. I also was in the Homeland Security markup where we were informed that the vote would be held open so we could finish the markup. Had I been in the Chamber, I would have voted no.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I am the chairman of the Homeland Security Committee. I apologize to my colleagues for any misunderstanding. We had a very busy agenda, important matters that we needed to get done today. I did make a request that the vote be held open. It was the wisdom of the Chair not to do so. I particularly express my regret to my colleagues, for some of whom this was the first rollcall that they have missed. Anyway, for myself, had I been here I would have voted in the negative. It would not have altered the result.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. I also was detained. Were I here, I would have voted no.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I also was at the Homeland Security markup. I am sure that anyone observing this is surprised that so many Senators in one setting, having been notified by the cloakroom, were put in a position where they missed a vote. Had I been here, like all my other colleagues, I would have voted aye. As we see, given that so many of our colleagues have to make this point to the Chair, we have now exceeded by far any time that might have been saved by cutting off the vote in an atypically short way.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, as did my other committee colleagues, I missed the vote. Had I been present, I would have voted ''no.''

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am very happy to see the Committee on Homeland Security doing its work. I think the country is very pleased. Thank you.

Mr. BYRD. Mr. President, let us have order in the Senate. May we have order in the Senate, Mr. President.

Why all this consternation about this vote? Were Senators promised they would have a chance to vote? They were. And we did not hold the vote for them. Now, we ought to do what we promised Senators we will do. Shame.

Mr. GREGG. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, I yield for a question.

Mr. GREGG. As one of the most leading Parliamentarians in the history of the Senate, would it be appropriate by unanimous consent to reopen that vote so that the——

Mr. BYRD. May I ask the Senator, what did he say?

Mr. GREGG. I ask the Senator if he feels it is appropriate to reopen the vote so that vote could be reconsidered and Senators could——

Mr. BAUCUS. I would object to that.

Mr. REID. Mr. President, can I be heard?

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I am very sorry people missed the vote. We waited almost 25 minutes for the vote. And I am sorry. Senator LIEBERMAN certainly did not do anything intentionally. He thought the vote would be held open. I have checked with the very loyal staff we have in the cloakroom, and there was a misunderstanding between the cloakroom and Senator LIEBERMAN.

But, regardless, I hope everybody understands we have to have some semblance of order around here. We are doing our very best to save people time. One of the things we are doing to save time is have a vote start on time and end on time. A 15-minute vote is a 20-minute vote. This vote was cut off approaching 25 minutes.

So I am sorry that people missed the vote. I had one Senator tell me it was the first one they missed. It is a favor to that person. I say the first vote I missed took a lot of the pressure off.

This vote passed, I think, 2 to 1. It is not a very difficult issue. I am so sorry that people are disturbed about following the rules here. That is what we are doing.

I appreciate my friend from Montana because if he had not objected, I would have.

Mr. HATCH. Mr. President, will the leader yield?

Mr. REID. Yes.

Mr. HATCH. Mr. President, apparently this was a sorry situation. Nobody's vote would be changed. Why can't we ask unanimous consent that these votes be counted?

Mr. REID. Because I will object to it.

Mr. HATCH. You would object to it?

Mr. REID. Yes.

Mr. BYRD. What was the Senator's request?

Mr. HATCH. I was requesting that we should consider unanimous consent that their votes be counted.

Mr. BYRD. No, Mr. President, we cannot do that.

Mr. HATCH. I understand.

Mr. BYRD. I thank the Senator. We cannot do that. I hope Senators will pay a little more attention.

Mr. President, who has the floor?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I had the floor, and I yielded to the Senator from West Virginia.

Mr. BYRD. I thank the Senator for yielding.

I was caught in this situation a while back, and I have cast more votes than any Senator in the history of this Republic, and it was called on me. I regretted that.

Sometimes I think we get a little bit too hung up. The Senate is a body in which we talk to one another, we talk with one another, we think about one another, and we think of one another's problems. We can get a little bit too hung up on the time on a vote. A vote is important. The people send me here, the people of West Virginia—who has the floor, Mr. President?

Mr. BAUCUS. Mr. President, I say to the Senator, you do.

The PRESIDING OFFICER. The Senator from Montana yielded time to the Senator from West Virginia.

Mr. BYRD. I thank the Senator from Montana.

Now, the people send me here to vote. That is my right. Of course, I ought to get here, be here on time. But the people expect ROBERT BYRD—the people of West Virginia expect ROBERT BYRD—to vote. So let's do not get hung up on 60 seconds or 30 seconds or whatever it is. Let's have a little bit of accommodations to one another.

I hope I am not speaking out of turn. I hope I am not saying too much or making too much of nothing. But I am sent here to vote, and I hope we will accommodate one another. We Democrats ought to accommodate one another, and we ought to accommodate the Republicans, too.

I thank the Senator.

Mr. REID. Mr. President, will the Senator from Montana yield?

Mr. BAUCUS. Mr. President, I yield to the Senator from Nevada.

Mr. REID. Mr. President, I say to all my colleagues, we have been in this session now for 7 months. This is something we all decided would be best for the institution. We all decided this. This is not something we put into effect yesterday. And I say to my dear friend, the senior Senator from Utah, I understand his compassion. He does not want to miss votes. But if we decide to change it this time, then we will be doing it every time people miss a vote.

Now, it would be different—I say to my friend, the ''Babe Ruth'' of the Senate, Senator BYRD, this was not 60 seconds, a few seconds off. We have a lot of work we need to do here. The vote was a 15-minute vote. We waited almost 25 minutes. So I think we have been fair.

The one I feel worst for is my friend JOE LIEBERMAN, because he felt they had the time to get here. I have checked with the cloakroom, and they emphatically said there was a misunderstanding, because they have a time, they know when the vote is going to end. When everybody calls, they say there is no extension, the time the vote will end is such and such a time. They have been instructed to do this because one Senator missed a vote Monday. So the cloakroom has instructions as to what to do.

I am sorry people missed votes, but remember, this is not anything that is new. It is something that has been going on for 7 months, and we have a lot of work to do. I respectfully suggested to one of my friends, who said: Well, we wasted all this time; we could have gone ahead and waited for everybody—but while we are waiting for everybody to come and vote, some people got here on time, and other people have work they want to do, waiting for people to get here on time.

So I think it is best for the body that we stick to our 15 minutes, plus 5 minutes. That is when the vote will be called. For those of us who have had service in the House—many of us have—you do not have any wiggle room in the House. That vote is over, and you are through. It is done mechanically, and you are all through. We do not want it to be like the House. This is the Senate, and we want it differently. That is why we have a 5-minute leeway.

I appreciate everyone's thoughtfulness, but I am certainly trying to do the right thing.

Mrs. HUTCHISON. Mr. President, will the distinguished leader yield for one observation?

I understand totally that the leader has to have a firm principle. And when it is one person who is late because they are off the Capitol grounds or something such as that, I think that is totally legitimate. This is something I have never seen since I have been here for 14 years, where a committee is meeting, with important business, and the committee chairman gives people the comfort that the vote is going to be held, and so you have around 12 people who have missed a vote.

I ask one more time for, just this once, a unanimous consent and will propose a unanimous consent that we reopen this vote.

Mr. REID. Let me say this. I have heard everyone loudly and clearly because we have spent a lot of time on this. Just so everyone has the total, absolute understanding, in the future—Senator LEAHY; Senator LIEBERMAN; Senator BAUCUS; Senator KERRY; Senator DORGAN; Senator BYRD, on Appropriations—if Appropriations chairmen tell you there is more time to vote, there is not any. Therefore, if the chairman is trying to keep you there, and the time is running, walk out of there.

I ask unanimous consent that those Senators who missed the vote because of the misunderstanding with Senator LIEBERMAN be allowed to cast their votes.

Mr. BYRD. No, Mr. President. That has never been done.

Mr. REID. Never been done. OK.

The PRESIDING OFFICER. That request is not in order and prevented by the rules.

Mr. REID. We tried, KAY.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I suggest we get back to business.

The PRESIDING OFFICER. The Senator from Montana has the floor.

AMENDMENT NO. 2587

Mr. BAUCUS. Mr. President, I understand Senator GREGG is ready for a vote with respect to his amendment, so I ask unanimous consent that there be 2 minutes equally divided in the usual form for debate prior to a vote in relation to the amendment, that no amendment be in order to the amendment prior to the vote, and that upon the use of time, the Senate proceed to vote in relation to the amendment, with no intervening action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, I understand this is a 45-minute vote?

Mr. BAUCUS. It may be.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, can we have order.

The PRESIDING OFFICER. The Senate will be in order.

There are 2 minutes of debate equally divided on the Gregg amendment.

Who yields time?

Mr. GREGG. Mr. President, I will claim my time, but I want the Senate to be in order before I begin.

The PRESIDING OFFICER. May we have order in the Senate for the Senator from New Hampshire. Will the Senate be in order.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, this amendment essentially says what the bill is titled and represents to be, which is that the funds will go to children, to help children get health insurance. This amendment says that adults can continue to be insured by States at the reimbursement rate, which is the Medicaid rate, should they so desire, but that a higher rate should not apply to adults by putting adults under a children's program.

The problem is very simple. States are gaming the system. They are using the SCHIP program, which gives a higher reimbursement rate, to bring into the system adults, and then they take that money and basically use it in their general fund. This is not appropriate. It is not appropriate, first, to have adults funded under a children's health insurance program. Secondly, it is not appropriate to give States the ability to game the system in this manner.

So I hope people will vote for this amendment, which essentially keeps the program for children and actually expands the number of children who can be covered by saving some money that is being spent on adults.

Mr. GRASSLEY. Mr. President, there are legitimate issues being raised about how adults are dealt with in this SCHIP bill. First of all, adding adults to SCHIP should have never been allowed. It was wrong when the Clinton administration started it. It was wrong when the Bush administration continued it. Stopping it is the right thing to do.

However, I think this amendment goes too far, too fast, and I encourage my colleagues to consider how the Finance Committee bill deals with adults. Let me be clear, in some States, the problem is extreme. Some States cover more adults than children. The even bigger problem is that several States that cover large numbers of adults have very high rates of uninsured children. This problem started under the Clinton administration but the Bush administration made it worse. Both the Clinton and the Bush administrations helped push Humpty-Dumpty off the wall. Now, it is our job to try to put the piece back together.

Advocates for parent coverage under SCHIP argue that in order to get kids covered, you have to cover the parents. I don't buy that argument; too many States that are covering parents are still among the worst in the country at covering kids. But the Congressional Budget Office does buy the argument that covering parents will get a few more kids covered. And they estimate that a reduction in parent coverage will lead to a reduction in children covered, so we have to be cautious. This amendment will lead to children losing coverage.

So what we have done in the Finance Committee bill is to say to States covering parents: put up or shut up. You either cover the kids or you get a far smaller Federal match for the parents you want to cover.

The bill before us eliminates coverage under SCHIP for childless adults by 2009. It eliminates the enhanced match for parents currently covered under SCHIP and prohibits new state waivers for parents. CBO estimates that it would reduce spending on adults by $1.1 billion. Furthermore, the easiest way to put the emphasis back on lower-income kids is to refocus the SCHIP program away from adults. The Finance Committee bill redirects States' efforts to low-income children.

Our bill covers 1.7 million kids in Medicaid who are currently uninsured. We are not talking about adults. We are not talking about middle-income kids. We are talking about 1.7 million of the poorest uninsured kids in this country.

As a former Governor, I am sure the Senator from New Hampshire can appreciate that concept. If your States will only get a lower matching rate for covering adults in SCHIP but significant financial incentives for covering low-income kids, where will you direct your energies? The parent policy in the Senate bill represents a reasonable compromise and I urge my colleagues to oppose the Gregg amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, four quick points. No. 1, we clearly want to bring this program down for kids, and this legislation does that. No. 2, the current expansion—not to point fingers anywhere—is basically as a result of the waivers this administration has given to States. That is the main reason for others. That is the main reason we have expansion to cover adults in States. No. 3, we are addressing this in this bill. We cut back on adults in this bill. But No. 4 is, we want to draw the line here a bit, and not totally cut adults off cold turkey, but, rather, childless adults would be cut back and zeroed out after 2 years, but then parents are phased down. But CBO has said when you do not cover parents, then you are also not covering some kids. The goal is to cover kids. I think the legislation is a fair, good, solid way to restrict coverage of adults, and I urge my colleagues, do not support this amendment, which is too draconian and goes too far.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment.

Mr. GREGG. 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.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON), the Senator from Illinois (Mr. OBAMA), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 42, nays 53, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—42

Alexander	Crapo	Lugar
Allard	DeMint	Martinez
Barrasso	Dole	McCaskill
Bennett	Dorgan	McConnell
Bond	Ensign	Nelson (NE)
Bunning	Enzi	Roberts
Burr	Graham	Sessions
Chambliss	Gregg	Shelby
Coburn	Hagel	Stevens
Cochran	Hutchison	Sununu
Conrad	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Kyl	Voinovich
Craig	Lott	Warner

NAYS—53

Akaka	Feingold	Murkowski
Baucus	Feinstein	Murray
Bayh	Grassley	Nelson (FL)
Biden	Harkin	Pryor
Bingaman	Hatch	Reed
Boxer	Inouye	Reid
Brown	Kennedy	Salazar
Byrd	Kerry	Sanders
Cantwell	Klobuchar	Schumer
Cardin	Kohl	Smith
Carper	Landrieu	Snowe
Casey	Lautenberg	Specter
Clinton	Leahy	Stabenow
Coleman	Levin	Tester
Collins	Lieberman	Webb
Dodd	Lincoln	Whitehouse
Domenici	Menendez	Wyden
Durbin	Mikulski	

NOT VOTING—5

Brownback	McCain	Rockefeller
Johnson	Obama	

The amendment (No. 2587) was rejected.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 2593 TO AMENDMENT NO. 2530

Mr. LOTT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for himself, Mr. MCCONNELL, Mr. KYL, Mr. GREGG, Mr. CORNYN, Mr. BUNNING, Mr. COBURN, and Mr. DEMINT, proposes an amendment numbered 2593 to amendment No. 2530.

Mr. LOTT. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. LOTT. Mr. President, I thank the managers of the legislation for allowing me to go forward with this alternative amendment at this time. I think it is important on an issue of this nature that we have a full discussion and amendments offered and debated and voted on. That helps us get to a conclusion on a major piece of legislation such as this without it turning into a late-night ugly session.

This alternative is intended to show we fully intend to be supportive of the SCHIP program—the program for children's health insurance—and we want it to be done in a responsible way and in a way that actually increases funding to make sure the children it wants to cover are actually covered.

This is an effort of good faith to come up with an alternative that I think is better, in many ways, than the underlying Baucus and others legislation. I have, on two previous occasions, indicated that part of my big problem is the pattern of the coverage going up and up, to the point where States that have waivers now, and under the underlying bill, middle-income children would be covered, and that we are on a steady march to say all children ought to be covered regardless of income.

I think that is a mistake. I think it is unaffordable. It will lead to disruptions, and it will lead to significant tax increases, or it will start to put our children against the parents. The way the House proposes to pay for this underlying bill is to go after funds in the Medicare Program. At least this bill doesn't do that, but it does pay for the increases with tax increases—yes, tobacco tax increases, but still tax increases which, in my opinion, are not going to be achievable and which will leave a huge hole in the funding.

So what we do in the alternative is to direct our attention at the core mission, which is low-income children—not adults, not middle-income children. We pay for it in a way that would equalize this Medicaid coverage in our States. So I think overall it is a very good alternative.

We have a number of Senators who are cosponsors of the legislation and would like to speak on it as we go forward this morning and into the afternoon.

Again, we all support reauthorization of the so-called SCHIP program, and we want to ensure that children have access to good, quality health care insurance. How you do it is the difference. We have come up with a different alternative that does it better because it puts kids first. It makes sure we take care of the kids, not an ever-growing list of kids and not a lot of adults. I

think you have to do it in a fiscally responsible way so we don't have huge holes develop in the outyears. One of the problems in the underlying bill is that down the road, in 6 years or so—and before that, in my opinion—the numbers are not going to add up. We will not have the income we were going to have, and there will be an explosion of the costs that are involved. So I think we should pay attention to the impact not just next year, or in 5 years, but it will be the situation in 7 or 8 years. That is what this bill does.

We have heard talk in the last couple of days from our friends on other side of this issue that they are concerned about the insurance for kids. I believe that, but that will be done in this bill. Let me tell you why. Under the Kids First amendment we sent to the desk, 1.5 million more children will be covered under SCHIP in 2017 than under the Baucus bill. Yes, that is a long way down the road, but the truth of the matter is we need to look at these programs over a 10-year period, not just the 5 years, because the commitments we make in that 5 years will continue to go up. We need to think about what is going to be the impact. You heard it right. It would cover actually more children in 2017. The Kids First bill will cover 3.6 million children. The Baucus bill will cover 2.1 million children in the SCHIP program.

The Kids First bill actually spends more money than the Baucus bill. You heard that right. We increase SCHIP spending by $9.3 billion over the next 5 years, expanding coverage to 1.3 million new children. Because the Kids First Act doesn't rely on any kind of budget gimmicks, as the underlying bill does, we can actually spend more on SCHIP over the budget window than the underlying bill does. I think it is important we focus on honest budgeting.

I realize honest budgeting is quite often in the eye of the beholder, but I don't think anybody would deny there are budget problems with the underlying bill. The Baucus bill has a long-term budget point of order against it, meaning that over the long-term it will significantly increase the budget deficit. The reason for this is the budget bill relies on the declining revenue. When you have the amount of increase on tobacco products included in the underlying bill—61 cents a pack for cigarettes and, of course, the same application to other tobacco products, including cigars—you are going to get less revenue than you project. People will not be able to afford it. They are going to change their habits. Some people would say that is going to be good for health. OK. I am not a big advocate of smoking, even though I smoke a pipe privately. Nobody here has ever seen me do that.

I think we have to be honest about what is going to be the impact the next 5 years. This will also contribute to an increase in Medicaid costs because the Baucus bill reduces SCHIP funding in those outyears, and CBO assumes those kids will have to be moved to Medicaid. That is part of what is going to be happening. More children will be under SCHIP under the bill and more children will be on Medicaid and more children will be coming off private health insurance. I don't think we want to do at least two out of those three things.

So I think it is important we cover the children in the low-income area and that we cover more children. That is what this alternative does. This amendment doesn't have a dime in tax increase to pay for it. It would not be subject to a point of order. Then it does a couple of other very important things. Unfortunately, last year, we never could get action on the associated health plans, the small business health plans.

We were so close, and yet because of some objections, perhaps legitimately, that the sponsors could not agree on, we did not give this opportunity to small business women and men to cover more of their employees, and they would like to. I talk to small business men and women. They don't understand why they cannot form groups and provide coverage to these low-income, entry-level workers, a lot of times unwed mothers, high school dropouts.

For the life of me, I cannot understand why we do not give that option. It would probably be a way that 10 to 20 million more working adults could get coverage. We do include in the bill the small business health plans.

We also include important health savings accounts reforms and provide for a study of ways to increase health insurance coverage through reforms to our Tax Code to enhance tax equity.

The Kids First Act is an amendment that all my colleagues, Republicans and Democrats, should support. The amendment enrolls millions more kids in SCHIP than the underlying bill and does it in a fiscally responsible way and avoids budget points of order. It will not expand Medicaid spending.

I urge my colleagues to actually take a look at this legislation. We have spent a long time coming up with it. I actually thought this was probably the bill that would come out of the Finance Committee when we started. We had bipartisan meetings. We talked about, OK, do we want to do this health insurance program for children? Yes, we do. How much do we want to do, and how are we going to pay for it? Of course, there were those in the beginning who said: No, we need a lot more than this. We need an increase of $50 billion or more.

I know the Senator from Massachusetts, Mr. KERRY, feels strongly about that point. He made his point legitimately. He said: Should we just decide how many we want to cover and don't worry about the cost and just do it? No, I think we also have to worry about the cost of these programs and how it is going to be paid for, who pays for it.

One of the things that worries me because we have this gap in the outyear funding—we have had pictures of children on the floor of the Senate. I have some grandchildren I worry a lot about—a 9-year-old grandson and two little girls, just under 6, and one 3. My daughter is a working mom full time, partially so her family can have insurance coverage, and her husband is a small businessman, an entrepreneur. It is not easy working full time as a mom, having two children, and dealing with other issues she really cares about, such as charitable activities. I worry about them. She is working to make sure they have this coverage, but I am worried they are going to be saddled with the cost of this extra coverage.

So let's do what we can affordably while complying with the underlying core mission of making sure that low-income children have access to this coverage. Generally speaking, my daughter and her husband would be considered middle-income Americans. That is what they would consider themselves. Yet they are having to work to get the coverage they want and barely making it so that others can have coverage who are making probably almost as much money as they are. I don't know, the way things are going, they might be eligible for this program. I don't think they should be.

Common sense is what is called for. We have a long way to go. There is no question the House bill is going to be much larger and funded in a much worse way. By putting down this marker, giving Members a legitimate alternative that a lot of Senators have been involved in, is a good way to go.

I urge Members to support this alternative.

I yield the floor.

Mr. MCCONNELL addressed the Chair.

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

The PRESIDING OFFICER. The Republican leader is recognized.

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

Mr. MCCONNELL. Mr. President, have I been recognized?

The PRESIDING OFFICER. I recognize the Republican leader.

Mr. LEAHY. Will the Republican leader yield for a moment?

Mr. MCCONNELL. Would the Senator from Vermont like to ask the Senator from Kentucky a question?

Mr. LEAHY. I said, will the Senator from Kentucky yield for a question?

Mr. MCCONNELL. I will be happy to yield.

Mr. LEAHY. Mr. President, the distinguished majority leader wishes to be on the Senate floor, and I ask the Senator from Kentucky if he will yield for a brief quorum call so that the distinguished majority leader can be on the floor.

Mr. MCCONNELL. Mr. President, I will be happy to accommodate that request. It was my understanding that

the majority leader was on the way, and I thought I would get started. But I will be happy to wait until he walks through the door, if that is the request of my good friend from Vermont.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, is the Lott amendment the pending question?

The PRESIDING OFFICER. It is the pending question.

Mr. MCCONNELL. I ask unanimous consent that it be temporarily set aside.

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

AMENDMENT NO. 2599 TO AMENDMENT NO. 2530

Mr. MCCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself and Mr. SPECTER, proposes an amendment numbered 2599 to amendment No. 2530.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate Judge Leslie Southwick should receive a vote by the full Senate)

At the end of the substitute, insert the following:

SEC. _____. SENSE OF THE SENATE REGARDING THE NOMINATION OF JUDGE LESLIE SOUTHWICK.

(a) FINDINGS.—The Senate makes the following findings:

(1) Judge Leslie Southwick served on the Mississippi Court of Appeals from January 1995 to December 2006, during which time he was honored by his peers for his outstanding service on the bench.

(2) The Mississippi State Bar honored Judge Southwick in 2004 with its judicial excellence award, which is awarded annually to a judge who is ''an example of judicial excellence; a leader in advancing the quality and integrity of justice; and a person of high ideals, character and integrity''.

(3) The American Bar Association has twice rated Judge Southwick well-qualified for Federal judicial service, its highest rating. As part of its evaluation, the American Bar Association considers a nominee's ''compassion,'' ''open-mindedness,'' ''freedom from bias and commitment to equal justice under law''.

(4) In 2006, the President nominated Judge Southwick to the United States District Court for the Southern District of Mississippi.

(5) Last fall, the Senate Judiciary Committee unanimously reported Judge Southwick's nomination to the full Senate for its favorable consideration.

(6) In 2007, the President nominated Judge Southwick to the United States Court of Appeals for the Fifth Circuit.

(7) The Administrative Office of the Courts has declared the Fifth Circuit vacancy to which Judge Southwick has been nominated a ''judicial emergency'' with one of the highest case filing rates in the country.

(8) Judge Southwick is the third consecutive Mississippian whom the President has nominated to address this judicial emergency.

(9) Both Senators from Mississippi strongly support Judge Southwick's nomination to the Fifth Circuit, and they strongly supported his 2 predecessor nominees to that vacancy.

(10) The only material change in Judge Southwick's qualifications between last fall when the Senate Judiciary Committee unanimously reported his district court nomination to the floor, and this year when the Committee is considering his nomination to the Fifth Circuit is that the American Bar Association has increased its rating of him from well-qualified to unanimously well-qualified.

(11) While on the State appellate bench, Judge Southwick has continued to serve his country admirably in her armed forces.

(12) In 1992, Judge Southwick sought an age waiver to join the Army Reserves, and in 2003, he volunteered to serve in a line combat unit, the 155th Separate Armor Brigade. In 2004, he took a leave of absence from the bench to serve in Iraq with the 155th Brigade Combat Team of the Mississippi National Guard. There he distinguished himself at Forward Operating Base Duke near Najaf and at Forward Operating Base Kalsu.

(b) SENSE OF SENATE.—It is the sense of the Senate that the nomination of Judge Leslie Southwick to the United States Court of Appeals for the Fifth Circuit should receive an up or down vote by the full Senate.

Mr. MCCONNELL. Mr. President, in 1992, a Mississippi lawyer named Leslie Southwick wanted to serve his country in the Armed Forces. At 42, he was too old to do so, but service to others is a duty that Leslie Southwick has always taken very seriously, whether in the Justice Department or on the State bench or with Habitat for Humanity or in doing charity work for inner-city communities. So in 1992, 42-year-old Leslie Southwick sought an age waiver to join the U.S. Army Reserves. The country had the good sense and the good fortune to grant his request.

Leslie Southwick continued to serve in the Armed Forces after he was elected to the State court of appeals in 1994. He conscientiously performed his military and judicial duties, even using his vacation time from the court to satisfy the required service period in the Mississippi National Guard.

In 2003, Lieutenant Colonel Southwick volunteered for a line combat unit—this is 2003—a line combat unit, the 155th Separate Armor Brigade. His commanding officer, MG Harold A. Cross, notes that his decision ''was a courageous move, as it was widely known at the time that the 155th was nearly certain to mobilize for overseas duty in the near future.''

Colleagues such as attorney Brian Montague were not surprised. This is what Brian Montague had to say: ''Despite love of wife and children,'' Leslie Southwick volunteered for a line combat unit over a safer one ''because of a commitment to service to country above self-interest.''

In August of 2004, Leslie Southwick's unit mobilized in support of Operation Iraqi Freedom. His commanding officer states that he distinguished himself at forward operating bases near Najaf. Another officer, LTC Norman Gene Hortman, Jr., describes Southwick's service in Iraq as follows:

Service in a combat zone is stressful and challenging, oftentimes bringing out the best or the worst in a person. Leslie Southwick endured mortar and rocket attacks, travel through areas plagued with IEDs, extremes in temperature, harsh living conditions—the typical stuff of Iraq. He shouldered a heavy load of regular JAG officer duties, which he performed excellently. He also took on the task of handling the claims of the numerous Iraqi civilians who had been injured or who had property losses due to accidents involving the U.S. military. . . .This involved long days of interviewing Iraqi civilian claimants, many of whom were children, widows, and elderly people, to determine whether the U.S. military could pay their claims. Leslie always listened to these Iraqi claimants patiently and treated them with the utmost respect and kindness. He did this not just out of a sense of duty, but because he is a genuinely good and caring person. His attitude left a very positive impression on all those that Leslie came in contact with, especially the Iraqi civilians he helped. This in turn helped ease tensions in our unit's area of operations . . . and ultimately saved American lives.

Lieutenant Colonel Hortman concludes that Leslie Southwick ''has the right stuff'' for the Fifth Circuit Court of Appeals—''profound intelligence, good judgment, broad experience, and an unblemished reputation.'' Lieutenant Colonel Hortman added:

I know him and can say these things without reservation. Anyone who says otherwise simply does not know him.

Stuart Taylor writes in the National Journal that Leslie Southwick ''wears a distinctive badge of courageous service to his country,'' and that he ''is a professionally well-qualified and personally admirable'' nominee for the Fifth Circuit Court of Appeals.

Judge Southwick does not seek thanks or notoriety or charity for his military and other civic service. He asks to be judged fairly—to be judged on the facts, to be judged on his record. It is the same standard he has applied to others as a judge, a military officer, a teacher, and a mentor.

It is a standard for which he is well known and admired. By that standard, he is superbly fit to continue to serve his country, this time on the Fifth Circuit Court of Appeals.

His colleagues know this, as do his home State Senators. His peers within the State bar know this. They honored him as one of the finest jurists, declaring him ''an example of judicial excellence; a leader in advancing the quality and integrity of justice; and a person of high ideals, character, and integrity.''

The American Bar Association knows this as well. It has twice given him its highest rating, ''well qualified,'' and in so doing found him to be exemplary in

the areas of compassion, open-mindedness, freedom from bias, and commitment to equal justice under law.

Even Democrats on the Judiciary Committee know this because just last fall, all of them—again, all of them—looked at his record and approved him for a lifetime position on the Federal bench.

But it appears that Democrats on the committee may now apply a different standard to Judge Southwick. A member of the Democratic leadership who serves on that committee states that what is ''determinative'' is whether a judicial nominee is perceived to be fair.

The notion that perception, rather than reality, will be dispositive in evaluating a nominee is at odds with the principle of the rule of law. And it is not fair to manufacture a false impression of someone through insinuation and innuendo, and then use that falsehood to defeat him. In the case of Judge Southwick, the sudden ''perception'' about his fairness is driven by those who do not even know him, and it is disproved by his long record by those who know him very well.

All nominees deserve to be treated with dignity, but a selfless public servant and veteran such as Leslie Southwick deserves to be treated with respect as well. It is disrespectful for the same members of the Judiciary Committee who unanimously supported his nomination last fall to now turn around and unanimously oppose him. There is only one change in Judge Southwick's credentials between last year and now. The ABA, hardly a bastion of conservatism, has actually increased—increased—its rating for him from ''well qualified'' to ''unanimously well qualified.'' Now what that means is that every single member of the ABA committee evaluating Judge Southwick's credentials for the Fifth Circuit, every single one of them gave him the highest possible rating—a unanimous ''well qualified'' rating.

A party-line committee vote would not be a ''perceived'' flipflop or a ''perceived'' injustice but an actual one. This is not a question of perception; this is a question of actually ignoring the reality of this man's record. It would make clear that despite the promise of a new start on judicial nominations that the Senate majority leader and I have been hoping for all year, when push comes to shove, we will treat nominees unfairly based upon a manufactured perception.

This sad standard is not only unjust, but it is actually unwise. As we all know, once established, precedents in the Senate are extremely difficult to undo. Establishing a third-party perception standard on the Southwick nomination will be bad for this Congress and really, more importantly, I will say to our colleagues on the other side of the aisle, bad for future Congresses regardless of who is in the White House and which home State Senators support a nomination. The standard we set now with a Republican in the White House and a Democratic Senate might well be the standard applied in a future Congress if, for example, it were a Democrat in the White House and a Democratic Senate.

Because such a decision will affect us all, and for the worst, it is appropriate for the Senate collectively to express its view on whether it wishes to go down this path, whether it wishes to undo the good work and good will that brought us back from the precipice just a few years ago. It is for that purpose that I have offered the sense of the Senate on the Southwick nomination. I encourage my colleagues to review it, to review the record, and to think long and hard about whether we want to deny this good man an opportunity for a vote here in the Senate.

Again, Mr. President, at the risk of being redundant, let me just say that the majority leader and I have been working hard all year to try to improve the confirmation process. I think that is a very wise thing for the majority to do because someday they may have the White House again, in spite of the best efforts of people like me. Once we establish an unrealistic standard for the treatment of qualified judicial nominees for the circuit court, there will be a great temptation on the part of the other side of the aisle to apply the same standard in the future.

There are plenty of grievances from the past. We have had Republican complaints about Democrats and Democratic complaints about Republicans. I guess the fundamental question is, When do we stop it? When do we stop it? For the sake of the institution, for the sake of the country, and for the sake of the party that may not currently occupy the White House, when do we stop?

It strikes many of us that the Leslie Southwick nomination is a good time to stop it because we all know he is extraordinarily well qualified. There is really no serious argument otherwise. And if we can't stop it now, Mr. President, when will we stop it?

So I think this will give us an opportunity to let all of the Senate express themselves, rather than just a few in one committee, on the appropriateness of this nominee.

With that, I yield the floor.

Mr. REID. Mr. President, it is my understanding the distinguished Senator from West Virginia is going to be recognized now; is that right?

The PRESIDING OFFICER. That is correct.

Mr. BYRD addressed the Chair.

Mr. REID. Mr. President, if I can interrupt my friend for a minute, will the Senator yield to me to make a brief statement regarding the statement made by the distinguished Republican leader, to be followed by 5 or 6 minutes by the Senator from Vermont, the chairman of the Judiciary Committee, and then the Senator from West Virginia would, of course, have all of his time?

Mr. BYRD. Yes. Yes, I will do that.

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

Mr. REID. Mr. President, it appears at this time that we will move to table this sense-of-the-Senate resolution offered by my friend, the distinguished Republican leader. I appreciate his advocacy for Judge Southwick. Some of us have a different opinion about Judge Southwick, and that has been made a part of the record already. I would refer to the CONGRESSIONAL RECORD of July 20, where I gave an extended statement on Judge Southwick and why I thought he should not be confirmed, but there will be more time to talk about this.

We have done a very good job, working with Senator LEAHY, in clearing judges. We have a bump in the road with this one, there is no question, and the bump is still there. I admire and appreciate the work done by the Senator from Vermont because we have been through some difficult times in recent years with the Judiciary Committee. Senator LEAHY will make a brief statement about some of the travails we have had.

Judge Southwick has had a hearing. It is up to the Republicans—namely, Senators Lott and Cochran—whether they want to vote in that committee. That is so much more than was given to Senator CLINTON's nominees, where about 70 never even had a hearing.

So we will have more time to debate this at a subsequent time, and sometime later today I will confer with my distinguished Republican colleague, the minority leader, to determine when I will offer a motion to table or Senator LEAHY will offer a motion to table.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. First, Mr. President, I thank the distinguished Senator from West Virginia for his usual courtesy and giving me some time to speak. I have had the privilege of serving almost 33 years—a third of a century—with the distinguished Senator from West Virginia. Of course, I know my 33 years pale in comparison with the time he has served.

While the distinguished Republican leader is on the floor, he and I have worked closely together on many things. I will not make comments about crocodile tears and all that, but it is interesting that he spoke of Judge Southwick being passed out unanimously last year. He forgot the fact that when he was being cleared for a vote by the Republican-controlled Senate, a Republican objected.

The Republican leader has forgotten that the Senate has confirmed 25 nominations for lifetime appointments this year—more than were confirmed, for example in all of 2005 with a Republican chairman and a Republican majority.

The leadership over there has forgotten that we Democrats—we Democrats—have confirmed more of President Bush's nominees for any given period of time while we have been in

charge than the Republicans did. We have had three different leaderships in the Senate Judiciary Committee and the Senate itself during the time President Bush has been in office. During the time that the Democrats have been in charge, we have actually confirmed more of President Bush's nominees than the Republicans did.

The weeping and gnashing of teeth going on makes me think that congressional Republicans love to shut down the Government and seem intent on manufacturing excuses to do so. In 1995 Newt Gingrich was so upset by the door he had to use on Air Force One—most people would be thrilled to fly on Air Force One—that he shut down the Government. When they were in the Senate majority a few years ago, Senate Republicans insisted on a 40-hour debate on their own President's court-packing scheme. And then we found out that during that time they were stealing our computer files. The then Republican leader had to fire one of his own aides for stealing computer files from the Democrats. So the weeping and gnashing of teeth that is going on leaves a little bit to be thought about.

The Senate has confirmed 20 circuit court nominations and 125 Federal judicial nominees during the 2 years I have been Judiciary Committee chairman. Compare that to the numbers of the Republicans. During the Bush presidency, more circuit judges, more district judges and more total judges have been confirmed, in less time, while I served as Judiciary Chairman than during the longer tenures of either of the two Republican Chairmen working with Republican Senate majorities. Yet you would think that somehow we are holding up everybody.

I would point out that it was the Republicans who pocket-filibustered over 60 of President Clinton's nominees. I think we have stopped two or three of President Bush's. Sixty-one. The distinguished Republican leader said he hoped all this would stop. Well, we are not going to do what they did. Incidentally, 17 of those were circuit nominees. Let me mention their names for those that have short memories: Barry Goode, Helene White, Alston Johnson, James Duffy, Elena Kagan, James Wynn, Kathleen McCree Lewis, Enrique Moreno, Allen Snyder, Kent Markus, Robert Cindrich, Bonnie Campbell, Stephen Orlofsky, Roger Gregory, Christine Arguello, Andre Davis, and Elizabeth Gibson. These are just some of the ones they pocket-filibustered.

Now, on Judge Southwick, I had him on the agenda. I took him off the agenda at the request of the Republicans. We actually had him on one time, and we did not get enough Republicans to show up to make a quorum to vote on him. I took Judge Southwick's nomination off the agenda at the request of Republican Senators. Neither the junior Senator from Mississippi nor the senior Senator from Mississippi nor the distinguished Republican leader has asked me to put him back on the agenda.

I am growing somewhat tired of the statements being made publicly about delay, many of which I do not attribute, of course, to my colleagues, so I put Judge Southwick's nomination back on the agenda for tomorrow.

I must say—and I will close with this—this makes me think about the first time I was chairman of this committee in the first Bush administration, knowing that we come from a time when the Republicans had pocket-filibustered 61 of President Clinton's nominees and one they had voted out almost unanimously from the committee whom they then ambushed on the floor, the distinguished James Graves, an African American who then became chief justice of the Missouri Supreme Court, the distinguished African American whom they humiliated by voting him out of committee, with no real objections, and then, in lockstep, with no notice, voted him down on the floor of the Senate. One of the most distinguished African-American jurists in the country, the Republican leadership decided to vote him down. But notwithstanding that, I tried to change that.

I remember when the Republicans asked me to have a hearing on a controversial nominee of theirs. They were very concerned about it. I actually came back from Vermont, which is not an easy thing to do in August, to leave that beautiful State—it is like leaving the beautiful State of West Virginia during the month of August, one of our prettiest times—but I left Vermont, came back, and held a hearing on that nominee so we could arrange in the first week of September to get him passed. Do you know what happened, Mr. President? Do you know what the reaction of the Republicans was? They trotted out a member of their leadership to tell the press how terrible it was that I held a hearing during August, even though that was the only way they were going to get their nominee through. That was hypocrisy.

Mr. President, with that, I will just point out again that there is no question of the numbers. The Democrats have moved more of President Bush's nominees more quickly than his own Republicans have when they have been in charge. If we are able to confirm just the five nominations for lifetime appointments to the federal bench currently on the Senate's executive calender, I will have presided over the most productive 2-year period for judicial confirmations in the last 20 years, with 130 confirmations. Let us stop the crocodile tears. Let us stop the hypocrisy. Let us stop the grandstanding and worry about what is best for the courts. This administration has played politics with the judiciary more than any of the six administrations I have served with—not for but with—and I think one example of their knowing what is best for law enforcement, what is best for the judiciary, is this administration's strong support of the current Attorney General.

With that, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

IRAQ

Mr. BYRD. Mr. President, it was 122 degrees in Baghdad today. The Iraqi Parliament thinks it is too hot to work and has gone on vacation. Our soldiers don't have that luxury. Our brave men and women continue to patrol the hot streets of Baghdad in full battle gear. They will get no vacation. They continue to risk their lives in the sand and in the heat, supposedly to give the Iraqi politicians ''breathing room'' to build a political consensus. Those politicians are now on vacation.

A majority of Iraqis now say that we are doing more harm than good by staying in their country. Perhaps I should say that again. A majority of Iraqis now say that we are doing more harm than good by staying in their country.

Every day brings more terrible news of American casualties. What has the response from this administration been? ''Wait. Wait. Give us more time.'' Our President has been saying that for the last 4 years, and it is clear that he will keep on saying it for as long as we keep on accepting it. So I am angry. This is my 49th year in the Senate. I believe it is the first time I have said that. I am angry. Every Member of this body should be angry, angry that the Iraqi Government is on vacation while our troops, American troops, U.S. troops—your troops, my troops, our troops—fight and die in their civil war.

Everyone, including General Petraeus, agrees that there is no military solution in Iraq. None. Iraqis will have to make the hard political compromises necessary to force a national consensus. Nothing the U.S. military does can force them to make those compromises. But, rather than work to craft a political solution, the Iraqi Government decided to take the entire month of August off.

And where has our Congress been? I am deeply disappointed that the Senate has once again failed to have a real debate on the issue of the war in Iraq. There is no issue currently facing our Nation that more deserves the attention of this body, and yet we continue to have empty procedural votes instead of passing legislation that would mandate a change of course, as a large majority of Americans want. We are, in fact, charged by the Constitution to have that debate, and yet we wait. ''Wait until September,'' the critics say. ''Wait until the new report.'' How many reports must this Congress read before we see the handwriting on the wall? I, for one, am tired of waiting. The American people are tired of waiting. Our brave soldiers and their families are tired of waiting.

The President and his supporters in Congress are fond of painting a picture of what would happen following a precipitous withdrawal from Iraq, and they paint with a pallet of fear. But

their picture is not reality. It is easy to win an argument against a straw man, but we are not calling for a precipitous withdrawal. The proposal that 53 Senators voted in favor of recently called for a phased redeployment of troops to focus on the threats that truly face us, not a hasty and radical complete pullout.

I opposed this terrible war from its beginning, but I recognize we are there now and some actions can't be so simply undone. Our first priority must be that of protecting U.S. interests, and the simple truth is that we do have vital interests in the region. The question is how to best protect those interests.

The President of the United States, President Bush—and I say this most respectfully—the President says that al-Qaida wins if we leave and that if we pull out the terrorists will follow us home. Let me say that again. The President says that al-Qaida wins if we leave and that if we pull out the terrorists will follow us home. Al-Qaida is our enemy, but are we really defeating them by trying to referee a sectarian civil war between Shia and Sunni that has been going on for over 1000 years? The President's own advisers now admit that al-Qaida is as strong today as it was before 9/11.

Al-Qaida is resurgent in Pakistan and Afghanistan. When the President of the United States took his eye off the ball and diverted our national attention from Osama bin Laden and his terrorist training operation in Afghanistan, the President dealt the security of the people, the American people, a major blow.

Iraq did not attack the United States on 9/11. No Iraqi, not one—not one—was involved in those attacks. Al-Qaida may now be in Iraq. But it was not there before we went in and handed them a new training ground for fresh recruits.

More importantly, al-Qaida is not the core of the problem in Iraq. Al-Qaida is not the core of the problem in Iraq, no matter how often the President says that it is. Former Secretary of State Colin Powell said recently that al-Qaida was only 10 percent of the problem in Iraq. The real problem in Iraq is not al-Qaida, the real problem is the multiple civil wars that are raging: Shiia versus Sunni, Shiia versus Shiia, Sunni versus Kurds.

The argument that if we lose in Iraq, they will follow us here is pure hogwash. Nonsense. Did you hear me? I say, did you hear me? Let me say it again. The argument that if we lose in Iraq, they will follow us here is pure hogwash. H-o-g-w-a-s-h. Hogwash.

I have heard that time and time again. If we lose in Iraq, they will follow us here. That is absolutely hogwash. Nonsense. What is keeping terrorists from coming here now? Tell me. So we heard the argument: If we lose in Iraq, they will follow us here. Well, what is keeping the terrorists from coming here now? Certainly not the fact that our military is in Iraq. Our military was not in Iraq when hijackers with box cutters flew planes into the Pentagon and the World Trade Center. Have we such short memories? I saw those planes attack the World Trade Center. I have not forgotten it.

Keeping our troops in Iraq is not what is going to keep a terrorist attack from happening again. So I repeat that. Keeping our troops in Iraq is not what is going to keep a terrorist attack from happening again. The real threat, the real threat, the real threat is in Pakistan and Afghanistan, as the President's own advisers admit.

Principled people in this country, let me say that again, principled people—in other words, people of principle in this country and in the Congress are calling for a change in strategy, not because they are weak, not because they are scared, not because they are callously political, they are calling for a change because it has become patently obvious that what we are doing is not making us safer, it is making us less safe.

They are calling for a change because it has become patently—p-a-t-e-n-t-l-y—obvious that what we are doing is not making us safer, it is making us less safe.

Now, as U.S. officials absolutely wake up to the resurgence of al-Qaida in Afghanistan and urge President Musharraf's Government to crack down in Pakistan, we confront great anger in the region. I think that statement is entitled to a rehearing.

Now, as U.S. officials slowly wake up to the resurgence of al-Qaida in Afghanistan and urge President Musharraf's Government to crack down in Pakistan, we confront great anger in the region.

Our continuing occupation of Iraq has damaged our credibility and aroused suspicions about the depth of the U.S. commitment to the sovereignty of other nations. There is a lesson here. It is this: If you are marching in the wrong direction or if you are fighting the wrong fight, unflinching persistence is not a sign of strength, it is a sign of stupidity.

If you are marching in the wrong direction or fighting the wrong fight, unflinching persistence is not a sign of strength, it is a sign of stupidity. Yet amazingly we hear plans of continuing for 2 more years our pointless, senseless occupation in Iraq.

I said it was wrong in the beginning. It was wrong from the start. It amazes me when we hear plans of continuing for 2 more years our pointless, costly, senseless occupation in Iraq.

The seas are rising and our present course is headed for an iceberg. Turn around. Turn around, Mr. President. Turn around.

I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, I wish to speak on the current health care discussion on the floor and take a few minutes to address this very important issue.

SCHIP is a great program that is called Kid Care in the State of Florida, where it has very successfully, over the past many months, been a good program in reducing the amount of children without health insurance.

I support its reauthorization as proposed in the McConnell-Lott amendment. I support a straight reauthorization because the alternative, the Democratic bill before us, greatly steers the program away from the original intent. The intent of this program is to provide health care for low-income children.

Instead, the underlying bill redefines SCHIP. It redefines the program to make SCHIP cover more adults and people well outside poverty. This bill will make families make a choice. A family of four making $82,000 a year could remain on private insurance, paid out of pocket, or they could take public-funded insurance.

That kind of choice will cost Americans about $37 billion a year by the year 2012. This kind of expansion of Government-controlled health care is counter to any effort to reform our health care system. The question comes: Why are we considering this expansion? Why take the focus away from the children SCHIP was intended to serve? SCHIP has successfully achieved what it set out to do and has significantly reduced the number of uninsured children.

Last year, 6.6 million children received health insurance through SCHIP. Rather than change the purpose of the program, as Democrats have proposed, we should refocus SCHIP on finding and covering the low-income children who are eligible for the program but are not yet enrolled.

The McConnell-Lott bill turns the focus to the original purpose, helping ensure children from low-income families have health insurance.

Instead of an expansion toward Government-run health care, the Republican alternative authorizes the program to keep the focus on children and invests an additional $14 billion into the program.

Additionally, the Republican alternative provides important practical and easily implemented reforms to make health insurance more affordable for the uninsured. Part of the problem with SCHIP right now is we can't find all the kids who need it. The Republican alternative commits $400 million over the next 5 years for improved outreach programs. This money targets enrolling low-income children. These funds target the low-income children SCHIP was meant to help. We have a problem when we have children who have no health insurance but yet we have not reached out and touched them. This new reauthorization will put the funds behind going out and doing the outreach necessary to ensure that all children who are uninsured

who could be covered under this program are reached.

The Congressional Budget Office projects that the Baucus plan will cover 600,000 new uninsured individuals at higher income levels, but then the plan would also cause 600,000 privately insured individuals at these income levels to drop their private coverage. Ironically, the Baucus bill drives people out of private insurance and into Government-sponsored health care. Under the Baucus plan dependency on government health care will increase significantly. In total, CBO says that 2.1 million individuals will move from private coverage to Government dependency if the Baucus plan is implemented. This isn't the health care reform Americans want. This isn't in the best interest of our country.

Before we take this step of moving people on to Government plans, let's have a broader debate. Let's think about the ramifications and the opportunities. We can do better by providing Americans with more individual freedom and more choice while increasing health care coverage and security. We can help more Americans to own their own health care, take it with them from job to job, and partner with States to make that policy more affordable. That is why some of my colleagues and I have introduced the Every American Insured Health Act.

The principles for health care reforms our bill addresses include tax equity. It is indefensible that Americans who buy insurance on their own are treated differently than those who buy insurance through their employer. Our bill amends the Tax Code to treat all Americans equally when it comes to the purchase of health insurance. The effect will be that health care will be accessible and affordable whether an employer offers coverage. As the name implies, the Every American Act provides everyone in America, regardless of income or employer, refundable flat tax credits—$2,160 per individual or $5,400 per family. The Wall Street Journal wrote in a recent editorial that restoring the tax parity of health in dollars would go a long way to improving the system and increasing access and affordability for everyone, including the 16 percent or so who today find themselves uninsured. It would also allow individuals to buy policies themselves rather than rely on their employers and take those policies with them wherever they work.

The flexibility the bill we propose is founded on the belief that Government's role should be to organize the health care marketplace and then let consumers make choices. We provide the opportunity for every individual family to choose the health care policy that best meets their needs. When you have a competitive marketplace, you get more choices, better care, and lower prices.

To get that market, our bill improves health insurance affordability in State marketplaces. It gives incentives, not mandates, for State insurance marketplace reform to create more options and more competition. The bill provides States the incentive to make health insurance more affordable and accessible by establishing a process to assist States in ensuring competitiveness. States will be given a menu of choices such as the incentive to establish a statewide insurance pool or establish high-risk mechanisms such as high-risk pools or reinsurance and improve their markets to enable insurance plans to offer at least one affordable policy valued at 6 percent of median income. This approach achieves the goals of universal coverage in a way that is truly American, by decreasing the number of uninsured Americans, thereby lowering health care costs for all Americans. This provides every American the right to choose their own health insurance plan.

Finally, our approach authorizes incentives for States to reform their health insurance markets to ensure the availability of affordable, high quality health insurance for individuals and for families. For too long Congress has skirted the real issue that affects Americans and their health insurance. It is time to start finding solutions to the problems instead of putting Band-Aids on programs and systems that are truly failing all Americans.

I ask my colleagues to reject the Baucus amendment, reject efforts to redefine and socialize our health care system. I ask my colleagues to support the McConnell-Lott amendment because it helps ensure that children in SCHIP continue to be served by the system and the program that was intended to serve them, broadening those who today could benefit from the program but are not there utilizing the opportunity before them because we have not reached out to them, and then also, as we do this, let's broaden the debate over fixing our entire health care system. It is a debate that is long overdue. It is a debate America yearns for. I look forward to engaging in that debate, how we continue to provide America the best and most sophisticated health care in the world but to make sure that every American participates in the opportunity to receive that best of health care we have to offer anywhere in the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, Senator CANTWELL is on her way to speak. She is not here. I see the Senator from Pennsylvania on the floor. I know he desires to seek time. I urge the Chair recognize the Senator from Pennsylvania who I think is going to speak about 8 to 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished chairman.

AMENDMENT NO. 2599

I have sought recognition to speak briefly on the nomination of Judge Leslie Southwick to the Court of Appeals for the Fifth Circuit. I have spoken extensively about Judge Southwick in the past, but I do want to address a few remarks on the pending amendment offered by Senator MCCONNELL and myself on the sense of the Senate that Judge Southwick ought to have an up-or-down vote on the floor of the Senate. It is my hope that we will proceed on judicial confirmations in a spirit of bipartisanship. Senator LEAHY, chairman of the Judiciary Committee, and I have worked very closely on that in this Congress, as he and I did in the 109th Congress when I was chairman and he was ranking member.

This body has seen some very controversial moments: in 2005, with filibusters against President Bush's nominees and the threat at that time to invoke the ''nuclear'' or ''constitutional option'' which would have brought the Senate to a standstill. We avoided that showdown and then worked harmoniously, in a dignified way, with Supreme Court nominations in 2005 and 2006. It is my hope we will find a way through on the Southwick nomination. I hope we do not have this vote degenerate back to a party-line vote without the kind of independent thought the Senate ought to exercise in evaluating the question which is whether Judge Southwick ought to have an up-or-down vote.

Judge Southwick has an extraordinary record. I do not use that word lightly. He served on the Mississippi State appellate court for some 12 years. He has been a party to some 8,000 decisions. He has written 985 opinions himself. He is rated unanimously well qualified by the American Bar Association. He passed out of the Judiciary Committee, unanimously, for a district court judgeship. He has been an adjunct professor at a law school. He was clerk of the Court of Appeals for the Fifth Circuit, so he has experience there. In a very unusual way, in his fifties, he volunteered for the Judge Advocate General's Corps, volunteered to go to Iraq and served there in a heavy combat zone.

I have had occasion to talk to him at great length, and he is a scholarly, intellectual, experienced lawyer, an experienced jurist. I have put into the RECORD detailed statements about many of his decisions where he has found in favor of the so-called little guy, finding in favor of people who have tort claims for injuries sustained, in favor of employees in employment cases.

The only two situations which have been brought up in opposition to Judge Southwick are two cases where he concurred in an opinion, two opinions which he did not write. In one of the opinions, it was a custody case, and the court found in favor of the father. There was a reference to the ''homosexual lifestyle'' of the mother which is a term that is used with some frequency. I think there could be more discretion in that language, but the

court found in favor of the father because of his community roots, because of the home he could provide for the child, and because of the father's income. The important thing about that case was its procedural posture. That was the sum and substance of that matter.

There was a second case where the issue involved a racial slur which admittedly was reprehensible. It was said by an individual, a public employee, about a fellow worker who was not present at the time. The subject did not hear the slur. There was an immediate apology. There was no workplace disturbance. The issue then came before an administrative review board that found that although the comment was reprehensible, under these facts it was not sufficient to support termination of employment. That issue then came back before the appellate court on a very narrow question. The question was whether the decision by the administrative board was arbitrary and capricious, which is lawyer talk for whether there was any evidence to support the board's ruling. The court felt that there was evidence to support the conclusion that there was not sufficient grounds for firing. The case then went to the State Supreme Court, and the State Supreme Court remanded on the limited question about having more detailed factual findings. But the Supreme Court of Mississippi agreed that the incident was not sufficient to warrant a permanent firing.

That is the sum and substance of the objections. When you look at the full record, you see that Judge Southwick ruled in a case where the trial judge had excluded evidence that the victim of a crime was gay, and Judge Southwick upheld the ruling that that would have been prejudicial, defense counsel should not have been permitted to ask that of a victim, seeking only to prejudice the jury. It did not having any bearing on the issue involved in the case. This supports the conclusion that Judge Southwick, in the custody case to which I referred, did not have any demonstrate traits or indications that he was biased or prejudiced or unjudicial in his approach to that particular issue.

It is my hope we will take a careful look at Judge Southwick's record before casting votes. I understand there will be a tabling motion. We should look at the underlying merits.

When we had the controversy in 2005, I urged my colleagues in the strongest terms to take a look at whether they thought individually filibusters were warranted against Priscilla Owen and Bill Pryor and Janice Rogers Brown. I asked my Republican colleagues to take a look on the merits as to whether it was warranted to talk about a ''nuclear'' or ''constitutional option.'' I make the same plea here today. Let's not be bound by a party-line vote, ignoring the merits.

There have been comments on the floor today, as there have been in the past, about President Clinton's nominees being improperly treated. I agree with that today, and I agreed with that when it happened, and I crossed party lines. I have crossed party lines to vote for President Clinton's judicial nominees when they were qualified. I hope we will come in the Senate, take a look at the individuals, take a look at the merits, and not move for a party-line consideration, and not avoid a vote, to have the man bottled up in committee. That smacks of the days of Senator Jim Eastland, when the Judiciary Committee bottled matters and prevented the Senate from voting on them.

I can understand there are some Senators who do not want a vote on Judge Southwick, but that is what we are here for. That is the pay grade—to vote. So I urge my colleagues to look at this matter on the merits. I hope we do not have our actions disintegrate to the kind of controversy we had a couple years ago, but that we can move beyond this to the kind of bipartisanship which Senator LEAHY and I have been able to muster for the Judiciary Committee.

I thank the Senator from Montana for allowing me to speak. I know the Senator from South Carolina, Mr. LINDSEY GRAHAM, has a few comments. I expect he will be very brief on the subject.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I might inquire of the Senator from South Carolina, how long does he wish to speak? We have been trying to go back and forth.

Mr. GRAHAM. Mr. President, I say to the Senator, about 5 minutes.

Mr. BAUCUS. Because that will be three on your side in a row before we go back to this side. Is the Senator speaking on the same subject?

Mr. GRAHAM. Yes.

Mr. BAUCUS. I urge the Presiding Officer to recognize the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I will try to be brief. I appreciate the recognition. I wish to speak very briefly on the matter pending before the Senate.

The whole idea of the confirmation process of judges has taken a kind of wrong turn for many years now. There is plenty of blame to go around from both parties. But one thing I wish to have happen in the Senate—for the good of the country—is to make sure when well-qualified people come before this body, they are put through their paces about their qualifications, their abilities, their disposition, their demeanor, inquiring as to how they think and what drives their thinking, but, at the same time, understanding that our job is to confirm people who are sent over by the President—elections do matter—and that when we look at a nominee, we part the politics of the last election, of the next election, and focus on the individual who will serve for a lifetime.

It is important to understand the nominee before this body, Mr. Southwick, has been serving as a judge in Mississippi since 1995. As Senator SPECTER indicated, he has been involved in thousands of decisions in a concurring role, and he has offered hundreds of decisions.

He joined the military, and volunteered, as a lieutenant colonel to go serve in Iraq at the age of 52.

The American Bar Association unanimously considered him well qualified, saying very glowing things about his temperament, his disposition. This is someone who has been looked at by people outside of politics and found to be extremely well qualified.

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

Mr. GRAHAM. Yes, sir.

Mr. DURBIN. I want to ask the Senator two or three questions about this nominee after he completes his remarks. I would be glad to wait until the Senator finishes.

Mr. GRAHAM. Absolutely. I will be glad to.

I do not want to infringe on the 5 minutes. But the bottom line, I guess to my good friend from Illinois, is, I do not think this is about qualifications at all. I think this man has lived a good life in the law and seems to be a good person, from what I understand from everyone who has spoken on his behalf. It is not a question about a character flaw or a lack of legal ability. It is about two cases.

As Senator SPECTER said, one case involved a racial slur that is a horrible term. The administrative review board, which took up that matter—should the person be fired because of this racial slur—found it was not a repeated event—under Mississippi law, it has to be more than an isolated event—it did not disrupt the workplace, there was an apology made and accepted, and the board found that this was not sufficient to terminate the person.

It went to the Mississippi Court of Appeals, and they, under Mississippi law, had to determine whether the administrative review board made an arbitrary and capricious decision, whether there is any evidence to support the court's finding, and they upheld the court's determination.

Judge Southwick, in that case, commented many times about how offensive the word was, and there is no place in society for this word to be used without it being considered to be offensive. But judges have to apply the law, not emotions.

I guess the question I have is, is there any belief on anyone's part that his concurrence in this upholding of the administrative review board suggests that he, as a person, is racially biased? Does this suggest he is defective as a person, that he harbors animosity against one group or another? I

do not think anybody can reasonably conclude that.

Judges sometimes have to be involved in emotional decisions. If people want to march through Jewish communities holding the Nazi flag, that is horrible, but under the law that is allowed on certain occasions.

The second case is about the term ''homosexual lifestyle.'' It was a custody case, and he was in an appellate review situation. That term was used in the underlying decision by the judge in terms of custody, but that term has been used in many other cases throughout the country in different jurisdictions.

I guess my question is, do you take these two cases, where he concurred, to say there is something wrong with him? Did he do something out of the mainstream of the law? And does it show that he, Judge Southwick, is somehow not the type person you would want to sit in judgment of your case or your family?

I think what we are doing to him is incredibly unfair. There is no real evidence at all this man, as a person, harbors animosity against one group versus the other. Quite to the contrary, from everything I see in the record, he has been a very decent, scholarly man who has applied the law in an admirable fashion.

So I wish we could allow an up-or-down vote on this fine fellow.

I will yield for a question.

Mr. DURBIN. Mr. President, if the Senator from South Carolina will yield for a question.

Mr. GRAHAM. Yes.

Mr. DURBIN. Under the previous administration of President Clinton, there was considerable controversy in the Judiciary Committee about whether President Clinton's nominees would receive a hearing and a vote. In scores of instances, nominees were given neither.

Can the Senator from South Carolina put in the RECORD now whether Judge Leslie Southwick was given a hearing before the democratically controlled Senate Judiciary Committee?

Mr. GRAHAM. I believe he was, yes. I believe so.

Mr. DURBIN. I say to the Senator, he did receive such a hearing.

Mr. GRAHAM. Yes.

Mr. DURBIN. I attended the hearing. I thought it was very fair at allowing both parties to ask Judge Southwick questions.

Mr. GRAHAM. All right.

Mr. DURBIN. Since the sense-the-Senate resolution before us suggests Judge Southwick's name be removed from the Senate Judiciary Committee and brought directly to the floor, I wish to ask the Senator from South Carolina, has there been any effort by any Democrat on the committee to stop Senator SPECTER or any Republican from calling Judge Southwick's name for a vote in the committee?

Mr. GRAHAM. As I understand it, the problem with Judge Southwick is that it appears there has been some effort to try to get the Mississippi Senators to nominate someone else. And there has been the suggestion he could be a district judge but we want someone else to be the court of appeals nominee. I do not think that is a process we should engage in. So there are a lot of politics behind this nomination. We should not allow that to happen. We should not basically hold hostage the ability of the Senators from Mississippi and the President to put someone forward. If we think they are not qualified, vote them down. But playing politics, trying to change the nominating process, I do not think is kosher. And I think that is what is going on.

Mr. DURBIN. My question directly is this: Is the Senator aware of any effort to stop Senator SPECTER or any Republican Senator from calling Judge Southwick's nomination for a vote in the Senate Judiciary Committee?

Mr. GRAHAM. No. But I am aware of an effort to get Judge Southwick replaced with another person more acceptable to the Democratic majority and, basically, to take away from the President the ability to nominate a well-qualified person for this slot and, basically, neutralize the two Mississippi Senators, who I think have chosen wisely. I think that is politics that is dangerous for us to play, and I wish we would not do it.

Mr. DURBIN. I am going to ask the Senator to yield for a question. I see Senator LEAHY has come to the floor.

I can say for the record—he can back me up—not only was Judge Southwick given a hearing—which many nominees in the previous administration were not given a fair hearing, I believe; and I think all present would say—there has been no effort to stop Senator SPECTER or any Republican from calling this nomination for a vote.

I wish also to ask the Senator from South Carolina, is he aware of the fact that the only African-American Congressman from the State of Mississippi, the Magnolia Bar Association, which represents most African-American attorneys in Mississippi, and the major civil rights group have expressed their opposition to the nomination of Judge Southwick?

Mr. GRAHAM. Yes, I understand there is some opposition from African-American elected officials. What I would say to that is, being a son of the South, I am very sensitive to all of this. I have lived all my life in South Carolina, and I understand the sins of the past. They are very real. I can remember growing up. My dad owned a bar where African Americans came into our bar and they had to buy their products to go. I remember that very well as a young man. I see things changing for the better, and we have a long way to go.

But what I see here, I say to my good friend from Illinois, is a man who has lived his life very well, who has been part of the solution, not the problem, who has never used the robe to impose arbitrary justice, who is trying to be a constructive member of the Mississippi judicial community, who has worked hard to make something of himself, and he is being accused of something he is not.

I do not care where the criticism comes from. What I am going to evaluate is what the facts are about this man. This is a good man, who has been a good judge, who is well qualified, and who is being unfairly labeled based on two cases that are being turned upside down. We are going to ruin the judiciary if we continue to play this game.

Mr. LEAHY. Mr. President, will the Senator yield for another question?

Mr. GRAHAM. Absolutely.

Mr. LEAHY. Mr. President, is the Senator aware of the fact that, formerly, when Judge Southwick was on the calendar as a nominee to be a district judge—Republicans were in charge—that when he was up for a vote, agreed to by the Democrats, he did not get a vote because of a Republican objection to a slate of judges? Is he aware of that?

Mr. GRAHAM. No, I was not. It is my understanding there was no objection on your side about him being a district court judge. Is that correct?

Mr. LEAHY. To answer that question, he was voted out for a district court judgeship, an entirely different type of judgeship than a court of appeals judgeship. It was in a package to be confirmed, I guess by unanimous consent, with the Republicans in leadership, and a Republican Senator from Kansas objected to one of the nominees, and, of course, it brought down the package.

If I understood the Senator correctly, he was worried about political actions. Was he aware—I know he was not able to make a couple recent markups of the Senate Judiciary Committee, although he is a member. Is he aware of the fact that Mr. Southwick is on the agenda for tomorrow's markup?

Mr. GRAHAM. Yes, I believe I am aware of that.

Mr. LEAHY. Was he aware of the fact that he was taken off the agenda earlier at the request of the Republicans?

Mr. GRAHAM. Yes, I am, because it is my understanding, if I could reclaim my time—and I am sorry to run over, I say to my good friend from Ohio—here is what I think is happening. I think everybody was OK with him being a district court judge, except maybe somebody on our side, and if the problem with this man is he has associated himself in a way that disqualifies him because of a racial problem, why should he be a district judge? If his problem is that he is against people because of sexual orientation unfairly, why would he ever be a district judge? So the point is that if he was good enough for a district judge based on his qualifications, why shouldn't we give him an up-or-down vote in a fair way in terms of the court of appeals?

So I think what is going on here is that we are trying to replace the discretion of the President and the two

Senators from Mississippi to play with a court of appeals nomination of Mississippi in a way that will come back to haunt all of us, and I just wish we wouldn't do it. Give this man an up-or-down vote on the floor.

Mr. LEAHY. Mr. President, if the Senator would yield on that point, when the Republicans were in charge of the responsibility of bringing forth his record, they never brought forth either the sexual or the racial issues that have been raised when he was up for district court judge. But we will discuss this tomorrow. I hope the Senator will be able to join us at the markup tomorrow. We have had a couple of occasions when the President's nominees for judges have been on our agenda and Republicans did not show up to make a quorum. I don't know if this helps to keep their numbers—I remind the Senator, however, that with the Democrats in charge, the time the Democrats have been in charge, President Bush's judges have been confirmed at a far more rapid pace and in greater numbers—in greater numbers—than they have been under a Republican-controlled committee or Senate.

Mr. GRAHAM. Mr. President, we will be there at the committee tomorrow, and I will yield the remainder of my time so we can get on with other business.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, we now have had three speakers from the Republican side of the aisle, three in a row, so I ask unanimous consent that the following speakers be recognized: Senator HARKIN immediately, and following Senator HARKIN, Senator CANTWELL will speak, and that would be the request at this point.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, in the decade since it was first authorized, the Children's Health Insurance Program has been an extraordinary success story. It has reduced the number of uninsured low-income children by a third, providing basic health insurance to 6.6 million children whose parents cannot afford private insurance but who do not qualify for Medicaid.

In my State of Iowa, the Children's Health Insurance Program has brought health insurance to nearly 50,000 children. Think about that: 50,000 kids who otherwise have had no health insurance have had access to regular checkups and prompt treatment of illnesses and injuries. By any measurement, this is a stunning success.

Let me introduce to my colleagues one of those 50,000 success stories. Her name is Jenci Ruff. She lives in Knoxville, IA. When she was in the third grade, she began having trouble seeing the blackboard. The school nurse recommended that she have her eyes tested, but her parents couldn't take her to a doctor; they were living paycheck to paycheck; they had no health insurance. By fourth grade, Jenci still couldn't see the blackboard and she began having headaches.

Fortunately, Mrs. Ruff learned about the Children's Health Insurance Program. She enrolled Jenci and her little brother. Jenci was referred to an eye specialist and received treatment. A year and a half later, her vision has greatly improved and her headaches have gone away. Mrs. Ruff believes that the treatment made possible by the Children's Health Insurance Program saved her daughter from going blind. In addition, Jenci's brother, prior to starting school, was able to get the necessary shots and physicals he needed.

As Mrs. Ruff told the Des Moines Register:

> Before, Jenci was having such a hard time to get through her reading. Her grades have improved. Her attitude about school has improved. But if she hadn't had this program—

The Children's Health Insurance Program—

> we never would have made it to a specialist.

I am very happy for Jenci Ruff and her brother and her family. But I have to ask, Don't we owe it to all of America's kids? Surely, in a humane, decent society, no child should go uninsured. No child should go without regular checkups and prompt treatment of illnesses and injuries.

That is why it is incomprehensible—incomprehensible—to me that President Bush is pledging to veto this bill because it would extend coverage of the CHIP program to too many kids. How could we extend it to too many kids? Instead, the President proposed $4.8 billion in additional funding over the next 5 years. That is less than what is needed just to maintain current enrollments. According to the Congressional Budget Office, the President's proposed funding would cut 1.4 million children and pregnant women from the Children's Health Insurance Program. How could anyone say that Jenci Ruff should have been cut from the children's health program? It saved her. It saved her from going blind. Yet we are told we don't have the money for this? Nonsense. Just think what it would have cost society if Jenci had gone blind, God forbid. What would the cost to society have been for her lifetime of special education, special schools, seeing-eye dogs, and all of the other things? How much more productive is she going to be now? Talk about penny wise and pound foolish.

The President just doesn't get it. Sometimes, when people are born with a silver spoon in their mouths and they have had all the accoutrements, they have had all the wonderful hospitals and doctors all their lives, they somehow—and I don't say this of everyone, but some people just can't imagine that everyone is not like them. Well, there are a lot of people who do not have the kind of wherewithal you may have had growing up.

So it is not just a public policy choice. I think the choice we have is a very moral choice: Do we go forward and extend health insurance to more kids from low-income families or do we cut these children from the rolls, condemn them to a childhood without checkups, without decent health care, without necessary medical treatment—that is, until they show up in the emergency room.

We all know too well what it means when a child does not have health insurance, when they don't even have access to basic medical care. Earlier this year, the Washington Post reported on 8-year-old Deamonte Driver of Prince George's County, MD. Deamonte was suffering from an abscessed tooth, but his mother could not afford to take him to a dentist. Eventually, the abscess spread to Deamonte's brain. He was taken to an emergency room, but tragically, after two operations and more than 6 weeks of hospital care costing upwards of $250,000, Deamonte—this young guy right here, Deamonte Driver—died. He died from an abscessed tooth. In the 21st century in the United States of America, this child died because he had an abscessed tooth because he is so low-income, he didn't have health care and mom didn't have any money. Not until he got so sick that they rushed him to the emergency room, and he died.

Why in the world would President Bush want to cut more than a million children from the rolls of the Children's Health Insurance Program and put them in jeopardy—the kind of jeopardy that took Deamonte's life? What is the real cost of denying children access to basic health care? Well, in the case of Deamonte Driver, if you want to know just in money terms, a quarter of a million dollars in emergency hospital bills, and, most importantly, it deprived Deamonte of his life and a very happy future.

So you compare the positive fate of Jenci Ruff, who is covered by the Children's Health Insurance Program, to the tragic fate of Deamonte Driver, who was not. This is not just a tale of two kids and two very different outcomes; it is the tale of two choices, the two choices we have to make. So we must make the right choice. Surely some things are beyond partisan disputes and ideological obsessions. Surely we can come together here to support extending health insurance to more kids in low-income families.

Some have argued that the President's pledge to veto this Children's Health Insurance Program is the death knell of compassionate conservatism. We have all heard about compassionate conservatism. Well, I would just point out that the President's threat of a veto is disappointing. But I would like to note on the positive side that this bill enjoys the strong support of a large number of conservatives, moderates, and liberals here in the Senate and in

the other body, and it has no more outspoken champion than my distinguished senior colleague from the State of Iowa, Senator GRASSLEY, who I see just arrived on the floor. So, as I said, this cuts across ideological lines. This is no conservative, liberal, moderate, up, down, sideways kind of issue; it is a basic moral issue that we have to confront.

I would say on behalf of my colleague from Iowa and so many Republicans who are supporting the Children's Health Insurance Program that compassion and common sense is alive and well with these Republicans. I applaud them for it. With their support, we intend to move forward with a bill that is not only strongly bipartisan but that, according to a recent Georgetown University poll, is supported by 9 in 10 Americans, including, I might add, the poll said 83 percent of self-identified Republicans. So again, this is not a partisan issue. Now, it may be an issue with this President and his ill-conceived notions, but it is not a partisan issue.

Lastly, this program has been a Godsend to my State of Iowa. As I said earlier, 50,000 kids in Iowa are covered who obviously would not have been. We call it the HAWK-I Program in Iowa, the Healthy and Well Kids in Iowa—the HAWK-I Program. The top income limit for Iowa families is 200 percent of the Federal poverty level, which comes to about $34,000 for a family of three, and, along with Medicaid, provides primary and preventive services to 3 out of every 10 Iowa kids. Yet, even with these programs I am talking about—Medicaid and HAWK-I—even with those two, an estimated 30,000 to 55,000 Iowa children remain uninsured. With the new funding provided in this bill, Iowa could cover nearly 15,000 more children over the next 5 years.

Expanding this program to cover more low-income kids is not only the right thing to do, it is the smart and cost-effective thing to do. We know when children get access to preventive and primary care services, good things happen. Kids get better health outcomes. They stay out of the emergency room. They get better grades. They do better in school. One dollar spent on the CHIP program can save many more dollars in health care expenses.

When an asthmatic child is enrolled in the program, the frequency of attacks declines by 60 percent and the likelihood that they will be hospitalized for that condition declines by more than 70 percent. If anybody has been paying attention, you know that kids' asthma has been on a huge increase in this country, especially among poor kids. Well, this is one way of keeping them out of the hospital. It is providing them with this kind of preventive coverage.

I might also add that the Children's Health Insurance Program is vitally important to rural Americans—rural States such as Iowa. The simple fact is that rural kids are more likely to be poor. In the most recent survey, 47 percent of rural children—47 percent—live in low-income families. So they are not only more likely to be poor, their parents are less likely to have any access to an employer-based health insurance program. So in the absence of the CHIP program and Medicaid, millions of low-income rural families have no other health insurance option, period. They live in small towns. They work for small employers,—mom-and-pop places that employ two or three or four or five people. They don't have the wherewithal to provide employer-based health insurance. They don't pay a lot of money. But these people are hard-working. They go to work every day and they work hard; they just don't make a lot of money. They live in a rural area, so they don't qualify for Medicaid, but they don't have enough money to buy health insurance. That is why this program is so important to rural America.

Experience shows that rural children are also difficult to enroll in the Children's Health Insurance Program, even when they are eligible. Again, low-income parents are often required to travel long distances to enroll their kids. In addition to high travel costs, there are language and sometimes cultural barriers. For these reasons, I am pleased that this bill would establish a new grant program to finance outreach and enrollment efforts targeted to rural areas.

So not only has the Children's Health Insurance Program been a great success, it is more important today than ever. In the decade since the program was created, we know the cost of insurance has skyrocketed and the number of Americans covered has fallen dramatically. But this has been a safety net for millions of low-income American families.

The bill before us would maintain coverage for the 6.6 million children currently covered and would extend coverage to more than 3 million more low-income, uninsured children over the next 5 years. That is a good and noble goal.

Obviously, if I had my druthers, I would say we ought to cover all kids—every child in America whose family does not qualify, does not have employer-based insurance, and whose income is such that they cannot afford private insurance. They ought to be covered by this program. They said this would cost $50 billion over the next several years. Well, then they made an agreement to make it $35 billion instead of $50 billion. OK, fine. I understand compromise around here. But that doesn't remove the fact that, even with this bill, millions of low-income kids will still be left without health insurance coverage. That is our task—to fill that gap. We may not get it done this year, but at least we can get this done this year and, hopefully, we can finish the job next year and cover every kid in America with health insurance.

It is time to put partisanship, ideology, and politics aside and pass this bill. Hopefully, the President will see more clearly his obligation to sign it and not veto it.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I rise to talk about the Children's Health Insurance Program and why we need to reauthorize the program that is about to expire in September. I thank Chairman BAUCUS and Senators GRASSLEY, ROCKEFELLER, and HATCH for their countless hours of meetings before the Senate Finance Committee, which met to mark up this bipartisan package. The fact that the bill passed out of committee with such a bipartisan effort shows people are working on both sides of the aisle to make children's health care a priority.

While my colleagues have talked a lot about what the administration has threatened to do in vetoing this legislation, in fact, as my colleague from Iowa mentioned on the floor, the President's own budget request doesn't put enough money on the table to take care of those currently enrolled in the Children's Health Insurance Program. In a bipartisan effort in the Senate, we are working across the aisle to say we want to do more, we want to cover about 3.2 million more children.

I thank my colleagues and their staff for coming up with this comprehensive bill and moving us further down the way to covering more children in America, as it is such a priority.

Some of my colleagues have mentioned why this is such important timing, and many have mentioned the fact that the bill's authorization is expiring in September. I think there is a more important reason. The important reason is we are seeing the cost of health care continue to rise; the fact that premiums have doubled, probably, in the last 5 to 6 years; the fact that insurance now is somewhere between $12,000 and $14,000 a year. A family who is at an income of $40,000 a year for a family of four is finding it very hard to keep pace. Those premiums may have doubled, but I guarantee you their wages and salaries have not doubled. So more and more people are finding themselves in the unfortunate situation of not being able to provide health care for their children.

I can tell you, in talking to people from all over Washington State, there is nothing more concerning to the parents than the health of their child and nothing more scary than to think they may not be able to get the health care attention their child needs.

So for us, we have a choice—a very smart choice. This is a cost-effective bill. If you think about the costs of providing children's health insurance under this proposal, we are helping families who cannot afford private insurance, or cannot find it available in the marketplace, or maybe their employer is not providing it. Now, under this program, with State and Federal

matching dollars, these families can provide health insurance for roughly $2,000 a year per child—maybe a little more or a little less, in some instances, for those currently on the program to the new enrollees.

Think about that. Think about the fact that if you don't have health insurance and a child is delayed in getting that health care or has to wait until the last minute to go into an emergency room, I guarantee the cost of a child's visit to an emergency room is probably going to be at least $3,000. The fact that we can make this prudent investment for 3.2 million more children; not only is this about their health and safety for the future, but it is about a plan that helps us in making sure we have an efficient health care system, giving those children their due need.

Too many families, as I said, are being forced to go without this coverage. What does that mean? We talk about preventive care and maintenance care. It means that these children are going without regular checkups, that they are missing more school than other children, and that they have to wait in the emergency room to get an answer about something that is a basic illness. It means that if simple infections—such as an ear infection or cavities or asthma or diabetes—go untreated and they spiral out of control, that child may fall further and further behind in their academic career. I believe no child should be forced into a special education program because their health care needs haven't been provided for.

This bill provides better coverage so we can treat things such as injuries and infections, detect far worse things such as chronic illnesses and make sure we are managing the conditions of children before they get out of control.

I know it is upsetting to my colleagues to read things such as: Uninsured children are four times more likely to delay their health care or that uninsured children are four times more likely to go without a doctor visit for 2 years or that uninsured children admitted to hospitals due to injuries are twice as likely to die while in the hospital as their insured counterparts.

Those are horrible statistics that point to the dilemma of not providing health care coverage for children.

I know my colleagues have been out here on the floor debating this issue as it relates to fairness and geography. I tell you, no child knows they are somehow prohibited from getting access to health insurance because of geography. Nor should the Senate make the mistake in thinking we are making geographic choices.

This bill is about flexibility. It starts with the flexibility of individual States because this is a partnership between the States and Federal Government in deciding what percentage of the Federal poverty line they are going to cover.

You can see on this chart the States in white have been more aggressive in covering a higher percentage of the Federal poverty line, and those in the gold color are obviously below 200 percent of the Federal poverty line. It doesn't take a genius to figure out why certain States are more aggressive or active in covering their area. If you look at the income and cost of living in these areas, they are challenged by what it takes to maintain a household, to put their children in school, and to take care of their health care needs. For example, there are parts of the country such as New Jersey, which the Presiding Officer is from. If you look at what it takes to provide the same goods and services in New Jersey and compare that with someplace like Arkansas, you are talking about a $13,000 difference in what it costs to provide the same services. In Little Rock, it may cost $30,000 for those goods and services, compared to $43,000 in New Jersey. That is why this flexibility is so important in the program. The fact that we allow States to determine its costs and we match that with Federal dollars.

The second thing we have not focused enough on is the fact that we also have disparity in insurance costs. Look at what it costs to provide insurance. For example, it is expensive to provide health insurance in Seattle, which costs about $13,000 a year. If you look at New York, it is $16,542. So the notion that somehow New York or New Jersey are getting a better deal because they live in a high-expense area of the United States and somehow, even with that extra cost of insurance, we should prejudice legislation from serving those children, I say that is a mistake. Every child in America who is covered by this health insurance program will be healthier, and every child who is covered and healthy will not only be a more contributing citizen to our society, but also we are going to reduce our own health care costs in the future.

So it is a wise and prudent plan to have such diversity in this proposal. I ask my colleagues, before they come out and look at formulas and offer amendments that basically cut States from having the flexibility in these formulas, to consider the geographic disparity and the challenges those individual States face.

I believe the Children's Health Insurance Program provides a critical backstop to families. They would rather be in a situation where they could provide the health insurance and care, I am sure, for themselves. I have certainly met Washingtonians who have given up their own health insurance to provide health insurance for their children.

We need to prevent the number of uninsured children in this Nation from growing, and this bill, the Children's Health Insurance Program, should be reauthorized and expanded to make sure we do stop the number from growing and that we attach our principles of covering at least 3.2 million now and, as we see brighter budget days coming back, covering the rest of the children in America.

I yield the floor.

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

Mrs. CLINTON. Mr. President, I thank my colleague from Washington for her usual very thorough and persuasive statement on the floor about the need for flexibility in this important program and the recognition that health care, similar to everything else, costs differently depending upon where you are in the country. I thank the Senator from Washington for reinforcing that important point.

The larger point is that today, in this Congress, we are on the verge of providing the greatest expansion of health coverage for our children since the creation of the Children's Health Insurance Program a decade ago. I believe—and I don't imagine anybody in this Chamber would argue with this belief—that every child deserves a healthy start in life. Certainly, we try to provide that healthy start for our own children, and we give a lot of lip service to the idea that we should provide it for all children. Yet far too many children in our Nation—more than 9 million—do not have health care.

I was very proud to help create the State Children's Health Insurance Program during the Clinton administration, working on this legislation during my time as First Lady. After the bill passed, I worked to get the word out to try to help more children and their parents understand what this new program could mean for them and encourage them to sign up in the first few years. In the Senate, I have continued that effort, fighting to ensure that health care for children has the priority in our budget that it deserves.

Today, thanks to the work of so many, CHIP provides health insurance for 6 million children. In New York alone, almost 400,000 children benefit from this program every month. With the legislation that Chairman BAUCUS and Senators GRASSLEY, ROCKEFELLER, and HATCH helped to craft, an additional 50,000 children in my State of New York will have access to health insurance coverage.

This legislation will also help enroll many of the 300,000 children in New York who live in families who are already eligible because their families make less than $52,000 a year, 250 percent of the poverty level for a family of four.

In total, across our country, 3.2 million children who are uninsured will gain coverage. That will reduce the number of uninsured children by one-third over the next 5 years.

If we can afford tax breaks for companies that ship jobs overseas and tax cuts for oil companies that are making record profits, I certainly think we can find it in our hearts and our budget to help cover millions of children who deserve a healthy start.

I want to be clear. If the President vetoes this bill, he will be vetoing

health care for more than 3 million children. And, once again, the President will have put ideology, not children, first.

Earlier this year, I was proud to introduce legislation with Congressman JOHN DINGELL to reauthorize and expand CHIP, and I am very pleased that a number of the ideas in our bill are included in this legislation, such as cutting the redtape and bolstering incentives to get eligible children into the program.

The legislation also improves access to private coverage and expands access to benefits, such as mental health and dental coverage.

This is so important, and I applaud the Finance Committee, under Chairman BAUCUS's leadership. Mental health and dental coverage are too often left out when we talk about health care.

Not far from where I am standing, in the State of Maryland last year, a young boy, Deamonte Driver, had a toothache. His mother sought help for him to get dental care. She called dentists, but they were not taking any more children on Medicaid or on CHIP. Then she got help from a legal aid group that helped poor families. They called around. I think they called 27 or 28 dentists who said: Look, our quota for poor kids is filled.

Deamonte Driver's toothache turned into an abscess, and the abscess burst, infecting his bloodstream, and he ended up in the hospital where doctors valiantly tried to save his life from the brain infection that resulted from the abscessed tooth that had not been treated. This young man died.

When one thinks about the loss of a child over something that started as a toothache, it is heartbreaking, but it is not by any means an isolated case. At the end of Deamonte's life, the State of Maryland and the U.S. Government ended up paying hundreds of thousands of dollars for emergency care, for intensive care, for life support, to no avail, for want of $80 to $100 to find a dentist who would care for Deamonte.

I commend the authors of this bipartisan bill for their work and for bringing forward a practical, fiscally responsible compromise that will allow us to reauthorize this important program and expand coverage. I am eager to see that it is signed into law.

I am disappointed, however, that the bill we are considering this week fails to include the Legal Immigrant Children's Health Improvement Act, which I introduced with Senator SNOWE. Senator SNOWE and I have been working on this legislation for a number of years. This bipartisan bill would give States the flexibility to provide the same Medicaid and CHIP coverage to low-income legal immigrant children and pregnant women as is provided to U.S. citizens. I underscore that. We are talking about legal immigrant children and legal pregnant women.

I believe we should provide this flexibility to States because the current restrictions prevent thousands of legal immigrant children and pregnant women from receiving preventive health services and treatment for minor illnesses before they become serious. Families who are unable to access care for their children have little choice but to turn to emergency rooms, and this hurts children and pregnant women, plain and simple.

I urge my colleagues to support my amendment to lift the ban on Medicaid and CHIP coverage for low-income legal immigrant children and pregnant women.

I also am disappointed that some of my colleagues have expressed concern about States, such as New York, New Jersey, and others, that have chosen to cover children above 300 percent of the poverty level. The legislation we are considering on the floor of the Senate would allow New York to continue doing this and receive the CHIP matching rate. We should not punish children and their families who live in high-cost areas and who need health care coverage.

I encourage my colleagues to vote against any effort to undermine the extension of health care in high-cost States where it costs more, as we heard from Senator CANTWELL in her statement on the floor, to provide the same coverage and treatment one would get elsewhere in our country.

I am proud we are debating a bill to expand health care to 3.2 million children, but the fact is, there should be no debating the moral crisis of 9 million children without health care, no debating the moral urgency of strengthening our health care system for children and all Americans.

Ultimately, the answer will be in a cost-effective, quality-driven, uniquely American program that provides health care to every single man, woman, and child in our country. But until we get to that point, it is imperative that the Congress pass this bill before we go out for recess and send it to the President, with the hope that he will sign it into law.

I also wish to mention another issue we urgently need to address. Last week, the bipartisan Commission on Care for America's Returning Wounded Warriors, chaired by former Senator Bob Dole and former Secretary of Health and Human Services Donna Shalala, issued its final report on the need to reform the medical care that our troops and veterans receive.

The Commission found in an excellent report—it is not one of these commission reports that just takes up a lot of space on the shelf. It is very pointed, with six specific recommendations, and it found that one of the most important ways to improve care for injured servicemembers is to improve support for their families. That is why I introduced a bipartisan bill, the Military Family and Medical Leave Act, with Senators DOLE, MIKULSKI, GRAHAM, KENNEDY, and BROWN, to implement a key recommendation of the Commission. We have offered this as an amendment to the CHIP legislation.

The Family and Medical Leave Act was the first bill signed into law under the Clinton administration. It came about because of a lot of hard work, led by Senator DODD in the Senate, and others, and it has proven to be enormously successful, helping more than 60 million men and women who try to balance the demands of work and family.

I believe it is time to strengthen the act for military families who find themselves in a very difficult situation. They should be given up to 6 months of leave to care for a loved one who has sustained a combat-related injury.

Currently, these spouses, parents, and children can receive only 12 weeks of leave under the Family and Medical Leave Act. All too often, this is just not enough time, as injured servicemembers grapple with traumatic brain injuries, physical wounds, and other problems upon returning from Iraq, Afghanistan, and elsewhere. In fact, 33 percent of active duty, 22 percent of reservists, and 37 percent of retired servicemembers reported to the Commission that a family member or close friend had to leave their home for extended periods of time to help them in the hospital. About 20 percent said family or friends gave up jobs to be with them to act as their caregiver. This is a step that we can take immediately that will make a real difference.

Many of us have been to hospitals in our own country—Walter Reed, Brook Army Medical Center—and other places in the world, such as Landstuhl in Germany, where we have seen our wounded warriors. There is absolutely no doubt that having the support, assistance, and comfort of a family member during that process when a young man or woman who has served our country is brought from the battlefield to the hospital makes a big difference in recovery and rehabilitation.

I think all of us agree that not only do our men and women in uniform make tremendous sacrifices on our behalf, so do their families. As a nation, we have a duty to provide them with the support they deserve.

Expanding access to health care for children and providing better support for our military families comes down to basic values that we as Americans hold dear. I think we all agree every child deserves a healthy start and every man or woman who wears the uniform of our country deserves more than words of support. The promise of America is rooted in these values, and I am very proud to support the bipartisan legislation expanding health care for children, and I urge my colleagues to join me and Senators from both sides of the aisle who are supporting our military families who are caring for those who have been injured in service to our country.

Finally, we hope on the other end of Pennsylvania Avenue there will be a

change of heart; that the President will decide to sign this legislation and relieve the burdens of ill health and inadequate access to health care that haunt the lives of so many American families.

Mr. President, please support this effort in every way possible by signing the legislation that will be sent to you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I know Senator HATCH wishes to speak on the underlying bill, the Children's Health Insurance Program. He is on his way to the floor. In the meantime, I see the Senator from Michigan is here, a very valuable member of the Finance Committee. She works very hard. She would like to speak on this bill. I thank her for coming to the floor. I urge the Chair to recognize the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, again, as I said when we first took up this bill on Monday evening, I thank the chairman of the committee for his passion in bringing us to this point, he and the ranking member, Senator GRASSLEY, as well as, of course, Senator ROCKEFELLER with his deep commitment, and Senator HATCH as well.

This is a truly bipartisan effort. It is the way we should be legislating—coming together. It is a compromise. If I were writing a bill by myself, I would add more dollars. There are Members on the other side of the aisle who would, in fact, do less. But it is a real compromise.

I start out today speaking to the fact that it is a compromise. As a member of the Budget Committee, having worked with our chairman and members very hard to produce a budget resolution that really does reflect a new direction in values and priorities, I worked very hard to have us achieve a set-aside of $50 billion for children's health care in the budget resolution.

In my heart of hearts, that is where I want to be. I also know that any significant expansion is a victory not only for us and for the Senate but, most importantly, for children and their families.

I know there will be an effort to expand to the full amount that we all wish to do—I think on this side of the aisle, certainly, that is where we want to be, and our House colleagues have focused on that as well. But I also know that we have a President of the United States who shockingly has said that he will veto providing children's health care, an expansion of more than 3.3 million children to receive health care, children of working parents. The vast majority of them have a mom or a dad working one job, two jobs, maybe three jobs trying to make ends meet, but who can't afford health insurance, don't qualify for Medicaid, but find themselves desperately wanting to make sure their children have all that they need, as all of us want as parents.

So we are in a situation where the President of the United States has indicated he does not share that view. His budget, in fact, is a budget that he proposed to us that would cut children. It would cut children who are currently being provided health insurance. It would eliminate their health insurance. So on the Finance Committee, we came together under very strong bipartisan leadership to find a common ground, the middle ground, to be able to increase the number of children who receive health insurance and be able to make sure that the 6 million children who currently have health insurance are allowed to maintain that insurance. We have come to a compromise, and it is a compromise I support.

As we face a potential veto from this President, it is critical that we have the strongest possible bipartisan vote coming from the Senate. If in fact the President follows through and vetoes this, I hope we will have enough votes to override that veto in a strong bipartisan spirit, the spirit that brought us together originally when the Children's Health Insurance Program was originally passed. I urge colleagues to support the Finance Committee version and what we have done as the best way to get us real health care expansion for children.

Then we will come back, and I will be right back as a member of the Budget Committee next year, proposing again that we expand what we are doing to make sure that every child who does not have health insurance, whose family is working hard but doesn't qualify for Medicaid and doesn't have the ability to get private insurance, has the health care they need.

We have, I understand, another proposal in front of us, an amendment that would take us backward. I understand Senator LOTT has offered an amendment that has actually been dubbed the CLIP amendment, instead of CHIP—Children's Health Insurance Program—CLIP meaning ''Children Losing Insurance Program.'' Again, we don't need anything that is going to take us backward and have fewer children receiving health insurance.

I want to see us make a major commitment to universal health insurance in the greatest country in the world so that everyone has the opportunity to be able to receive the health care they need. We should be striving to achieve nothing less than that.

The Lott amendment, first, will cut children's health care and take us down the road of debating the number of policies individually that Members may support, policies I find great concern about, and policies that will actually increase the number of uninsured, such as expanding the health savings accounts. I urge colleagues to oppose the Lott amendment because it takes us in absolutely the wrong direction if we want to cover children of low-income working families, and if we want to make sure they have what they need to be able to grow up and be successful in America.

I have also heard debate about the cost of this legislation, and it is important to look at what we are talking about in terms of our values and priorities when we debate any piece of legislation. Everything we do here is about values and priorities. Right now, every month, we are spending $12 billion in Iraq—$12 billion. Regardless of how any one individual feels about the war in Iraq, we are spending $12 billion—not paid for, not a part of the budget—$12 billion a month. This bipartisan effort to provide health insurance for more than 3 million more American children in this country is a cost of $7 billion a year—a year; less than what we are spending in 1 month in Iraq. That is the right value and the right priority. This is paid for, it is responsible and, most importantly, it is the moral thing to do in the greatest country in the world, in my opinion. This is not too much to invest in the future generation of America.

Yesterday, the chairman and I, a number of us, had an opportunity to be with a wonderful woman, Kitty Burgett, from Ohio, who spoke about the importance of children's health care in her family. I know it was a very moving experience to hear her, and I wanted to share her story. I have certainly other stories from Michigan as well, but Kitty came to the Nation's capitol to share what the Children's Health Insurance Program has meant to her and to her family.

Kitty is a widow whose husband died in 1990, leaving Kitty and her two young children without income or insurance. She had Social Security survivor's benefits, but even that little income put her and her children over the Medicaid eligibility levels, so they didn't qualify for low-income health insurance because of their survivor benefits. She started working but earned very little. Nonetheless, she purchased insurance for her children, because like all of us who are parents, she wanted to make sure her children had what they needed. She wanted to make sure if they were sick, she was able to care for them with health insurance. So she purchased that insurance, but the cost rose every 6 months, and she finally had to drop it because of the cost. That is an uncommon story in America today.

Then along came the Children's Health Insurance Program. Kitty immediately enrolled her children. She had a daughter who was 12. Her son was a bit younger. Her daughter then began to develop problems, and, ultimately, at age 15, was diagnosed with bipolar disorder. She was ill. She was hallucinating and she had major mood swings—as those of us who are familiar with that disease understand—from depression to highs and hallucinations. She couldn't concentrate at school. The Children's Health Insurance Program was there so Kitty could get her daughter some help. It covered her medications and therapy and eventually some new medicines that brought

her illness under control. Her daughter is now 22 years old. She is married, she is working, and she is insured. She has an 18-month-old daughter named Scarlet. Kitty says the Children's Health Insurance Program kept her daughter from a lifetime of institutionalization, and, instead, she is a productive, contributing member of society and a loving mother to Scarlet.

That is what this is all about, giving people in America—parents, the vast majority of whom are working—the ability to provide their children with the health care they need so they can go on to be successful, thriving, contributing adults in America.

I might also mention I am very pleased that the bill in front of us expands the opportunity for what is called mental health parity, so that if there is insurance provided, mental health care will be a part of that. I congratulate Senator KERRY and Senator SMITH, who have led that effort to expand us into the area of more adequately covering mental health care for children.

This program covers children all over the country. It is interesting to note that there are more children uninsured in rural areas than in urban areas. This will make sure that, in fact, all of the children who qualify under this program are able to receive the health care they need. Right now, in Michigan, we have about 60,000 children who are on the Children's Health Insurance Program and another 90,000 who are eligible—who qualify right now under the program we wrote—but because funds aren't available for outreach, funds aren't available to do what is necessary, we are not able to provide those families, those children, with health insurance. This bill goes a long way to making that happen.

I have heard so many stories from Michigan, and it touches your heart when you think about the way families are struggling to be able to care for their children at the same time costs are going up at every turn. We have folks who are working harder than ever: They turn around and gas prices go up; they turn around and their insurance premium goes up; they turn around again and look at the cost of college, and those costs have gone up. We addressed the cost of college last week. Those things go right to middle-income families—student loans and Pell grants and those programs that allow more people to have the opportunity to go to college and send their children to college.

The reality is that on every side families are feeling squeezed—working harder and costs going up and up and up. Children's health care is one way, another critical way, we can help families. I think of Chad, a gentleman in Michigan. He and his wife have two young children. He works for a small landscaping business with an ''off season'' of 3 to 4 months in the winter when he is not working. If the couple purchased insurance through Chad's employer, it would be an additional $300 a month, which for them is not affordable. Through MIChild, which is our children's health program, both his sons are able to get the inhalers they need for their asthma. How basic, in America, in the greatest country in the world, to make sure that children can handle their asthma.

I also heard from Pam, who is a full-time preschool teacher and mother. Her monthly premiums of $384 a month, or over $4,500 a year, take up over one-fifth, or 20 percent, of her pay. Through the MIChild program, she was able to get the specialized care she needed for her youngest daughter, who suffers from a rare seizure disorder.

I could go on and on, but I will not. We all have stories of families who are wanting the best for their children, who want the American dream. They do not want to go to bed at night and have to say, please, God, don't let the kids get sick, don't let something happen tonight or tomorrow because I don't know what I am going to do—we don't have health insurance. We are the greatest country in the world and there is no excuse for any family finding themselves in that situation.

We have in front of us a bill that is a true bipartisan compromise. For me, it is a step in the right direction to universal care, and an opportunity to come up with a uniquely American way to provide universal health care for everyone in America. I believe health care is a right, not a privilege, in the greatest country in the world, and we should act like that. This important legislation is part of keeping that promise.

We started down the road with covering children whose parents are working, who do not qualify for low-income help through Medicaid because they are just above that limit, but aren't able to get the insurance they need for their families. We have children who qualify today but, because the resources aren't there, they are not able to get the health insurance they need. This legislation will say that more than 3 million more children—families—in this country will not have to go to bed at night worrying about whether their kids are going to get sick tomorrow.

Finally, I say again that this is about values and priorities. Always it is about values and priorities. This is the right thing to do. It is the moral thing to do. When we find ourselves in the situation of spending $12 billion a month on the war in Iraq, not paid for, and in front of us we have the ability with $7 billion a year to cover over 3 million more children with children's health care, the 6 million who have insurance now and over 3 million more in America, responsibly done and paid for, this is the right thing to do. It is the moral thing to do.

This is a great success story, and I am very hopeful we will see a very strong bipartisan vote when this comes before the Senate for a vote.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mrs. DOLE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside in order that I may offer an amendment.

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

AMENDMENT NO. 2554 TO AMENDMENT NO. 2530

Mrs. DOLE. Mr. President, I call up amendment No. 2554, now pending at the desk, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mrs. DOLE] proposes an amendment numbered 2554 to amendment No. 2530.

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

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

The amendment is as follows:

(Purpose: To amend the Congressional Budget Act of 1974 to provide for a 60-vote point of order against legislation that includes a Federal excise tax rate increase which disproportionately affects taxpayers with earned income of less than 200 percent of the Federal poverty level)

On page 217, after line 25, add the following:

SEC. ___. BUDGET POINT OF ORDER AGAINST LEGISLATION THAT RAISES EXCISE TAX RATES.

Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''POINT OF ORDER AGAINST RAISES IN EXCISE TAX RATES

''SEC. 316. (a) IN GENERAL.—It shall not be in order in the Senate to consider any bill, resolution, amendment, amendment between Houses, motion, or conference report that includes a Federal excise tax rate increase which disproportionately affects taxpayers with earned income of less than 200 percent of the Federal poverty level, as determined by the Joint Committee on Taxation. In this subsection, the term 'Federal excise tax rate increase' means any amendment to any section in subtitle D or E of the Internal Revenue Code of 1986, that imposes a new percentage or amount as a rate of tax and thereby increases the amount of tax imposed by any such section.

''(b) SUPERMAJORITY WAIVER AND APPEAL.—

''(1) WAIVER.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

''(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.''.

Mrs. DOLE. Mr. President, nearly every Senator in this body agrees we should not increase the tax burden on low-income individuals and families. Unfortunately, the bill before us would do that by raising the tobacco tax by 156 percent. No other Federal tax hurts the poor more than the cigarette tax, according to the Tax Foundation. Of

the 20 percent of the adult population that smokes, around half are in families earning less than 200 percent of the Federal poverty level. Furthermore, a massive and highly regressive tax increase on an already unstable product is a terribly irresponsible way to fund the State Children's Health Insurance Program.

My amendment is very simple. It creates a 60-vote point of order against legislation that includes a Federal excise tax increase that would disproportionately affect low-income individuals, defined as taxpayers with earned income less than 200 percent of the Federal poverty level.

A majority of my colleagues say they oppose increasing the tax burden on lower income families, or even oppose tax increases outright. I, therefore, would expect that this commonsense amendment would receive tremendous support in the Senate.

I ask unanimous consent that my amendment now be laid aside, with the understanding we will return to it at a later time.

I yield the floor.

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

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I understand the Senator from Massachusetts, Mr. KERRY, is about to speak. As he gets ready to speak, there are a couple of points I wish to make. We are still working the numbers on the McConnell-Lott amendment. I wish to point out a couple of points.

No. 1, the McConnell-Lott amendment, although it is advertised to do this, does not put kids first. Despite prohibiting coverage of nonpregnant adults and limiting all State income disregards, this legislation does not cover substantial numbers of additional children.

On the surface, they think they may cover 700,000 additional kids, but we are trying to get the numbers from CBO and trying to determine the actual effect; whereas, the Finance Committee bill the CBO has analyzed very carefully it will cover an additional 4 million children. About two-thirds of those will be on Medicaid, and roughly a million will be under the Children's Health Insurance Program.

The big difference is the different effects between the Finance Committee-passed bill and the McConnell-Lott bill on uninsured Medicaid-eligible children; that is, children today who are not on Medicaid but are eligible—what is the effect of the two various approaches on those low-income kids.

Again, I give the caveat we do not have all the actual language and do not have all the numbers exactly crunched by CBO, but a first analysis essentially looks like this. It looks basically like the McConnell-Lott bill will not add many new kids to be covered under Medicaid; whereas, the Finance Committee bill has about 1.7 million children now not covered under Medicaid who will be covered.

It is complex legislation we are considering. This is a Children's Health Insurance Program. But as we work to get more kids covered under the Children's Health Insurance Program, by definition there are going to be more kids also covered under Medicaid—that is children whose income levels are so low they are covered under Medicaid as opposed to the Children's Health Insurance Program.

There is a huge difference there. It looks like the McConnell-Lott bill will not help the very low-income kids who are currently eligible under Medicaid to be covered. In fact, the Finance Committee bill covers at least five times more.

I might say a word about the so-called crowding out. Senators are concerned this legislation will have the net effect of encouraging some children, now under private health insurance, to drop their private health insurance coverage to take advantage of the Children's Health Insurance Program expansion. There are a couple of points about that.

No. 1, under the McConnell-Lott amendment, it looks like their so-called crowd-out ratio is even more adverse from their perspective than the crowd-out ratio under the Senate Finance Committee bill. I don't wish to belabor the point. It is roughly the same, roughly 30 percent, but their crowd-out rate is a little greater on a percentage basis as to how many kids are there who will drop private health insurance for the Children's Health Insurance Program. But theirs is no better in fact a little worse, from that perspective.

Also, it is important and worth noting that when Congress passed the Medicare Modernization Act a few years ago and it provided for the Part D benefits for senior citizens, CBO said the crowd-out rate for that program would be much higher—and it was. I think there is one estimate beginning at 75 percent. I think it dropped to around 40 percent. I might not be entirely accurate on those numbers, but it is much higher than the 30 percent predicted under the Finance Committee CHIP bill and also about the same under the McConnell-Lott substitute.

In addition to that, we on the Finance Committee wanted to reduce the so-called crowd-out as much as we possibly could. We asked the Congressional Budget Office, especially the Director of the Budget Office, Peter Orszag, to tell us on the committee what did we have to do on this legislation; tell us how we should write it to minimize crowd-out as much as we possibly can, be as efficient as we possibly can. He told us what to do and we did it.

In the Finance Committee markup, when asked about crowding out; that is, kids moving from private health insurance coverage over to the Children's Health Insurance Program, he said you have done it efficiently. You have done it as well as you can do it.

I wish to make the point very clear. While we are helping children, while we are helping low-income kids get health insurance—as we clearly should—we also do not want to disrupt the private industry any more than need be.

It is important to remember that States are given power to decide how they want to administer the Children's Health Insurance Program. It is up to the State. Some States add it to Medicaid. Some States have separate programs. Most States use health insurance companies to administer the health insurance program, the Children's Health Insurance Program, with copays and deductibles, and so forth. So those who on the surface might be concerned if their ideology is it should be private health insurance, not the Children's Health Insurance Program, should not be too concerned, frankly, because we have gone the extra mile to make sure that so-called crowd-out is minimized as much as we possibly could.

I will have other points to make later on about the McConnell substitute. Basically, I wish to say it states that if you are at 200 percent poverty or a little above 200 percent of poverty, despite what we anticipated when we passed this legislation in 1997, I am sorry, you can't go above 200 percent if you want to have the benefit of the Children's Health Insurance Programs match rate, which is a little more beneficial to the States than the Medicaid match rate. That is not right. So many States are at least above 200 percent of poverty. I think that is wrong.

The other major thrust of the McConnell substitute is if you are above 200 percent of poverty, you have to go into the private market. That encourages them very strongly. That is not right either. Fundamentally, the Children's Health Insurance Program was written first, in 1997—again, it is a block grant program that gives States flexibility and recognizes that every State is different.

So often Senators say we should not enact one size fits all. I have heard that 100 times around here. Basically, that is correct—not always but basically. Senators who are advocating McConnell-Lott say one size fits all, basically, not recognizing that different States have different costs of living, some States are much more expensive to live in than others.

I saw a chart the other day that showed if you take 200 percent of poverty and matched that against the cost of living in various States in our country, in some States, the parity level would be maybe down around, oh, say, 150 percent of poverty. But there is one State that was 300 percent. If you translate the 200-percent nationwide figure to what the cost of living is in that State, it comes out to 300 percent. I think that is fair because different States are so different.

I ask unanimous consent, now, that the pending amendment also be temporarily laid aside so Senator KERRY may offer an amendment.

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

The Senator from Massachusetts is recognized.

AMENDMENT NO. 2602 TO AMENDMENT NO. 2530

(Purpose: To provide sufficient funding and incentives to increase the enrollment of uninsured children)

Mr. KERRY. Mr. President, I call up amendment No. 2602.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. BINGAMAN, Mr. SANDERS, Mr. CASEY, Mr. MENENDEZ, Mr. DURBIN, Mr. REED, Mr. BROWN, and Mr. WHITEHOUSE, proposes an amendment numbered 2602 to amendment No. 2530.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. KERRY. Mr. President, let me begin first of all by thanking the distinguished chairman of the finance committee on which I have the pleasure of serving, whose leadership has been critical in bringing this bill to the floor. He and Senator GRASSLEY, Senator ROCKEFELLER, and Senator HATCH deserve the thanks of children all across America, of all those advocacy groups fighting for children's health care, and certainly of our colleagues who care about it and have been fighting for it for a long time. They have shown real leadership in bringing about an important compromise by fashioning a bill that was reported out of committee with bipartisan support.

We all understand how difficult that can be, sometimes. Sometimes the negotiations in our committee are out of balance because of the membership of the committee and you may have a different feeling when you finally get to the floor. So I applaud the Senator from Montana. I will say up front, I know that if he had his druthers, he would vote for this on the floor of the Senate now. I also know when you are the chairman and you fashion a compromise in your committee, you have to stick with your compromises. Everybody here understands how that works. So I recognize that this is an amendment that is difficult for him in the context of this overall bill.

But I ask my colleagues to think about this amendment outside of the inside game of the Senate. I ask my colleagues to think about this amendment outside of the parliamentary agreements that have to be made in order to get something out of the committee and actually get it to the floor so we can all consider it. But I also ask my colleagues to remember that when it gets to the floor, we have a chance to vote as Senators, all of us—not as members of the committee. Certainly, the vast majority of the Senate is not bound by what happened in a committee. We are bound by our responsibility, each and every one of us, to our constituents in our States and to our beliefs about what is best for the country.

I believe, first of all, the legislation that the Senator from Montana and the Senator from Iowa, Senator GRASSLEY, have brought to the floor is important for the country. I think everybody agrees on that. I think this bill is going to pass with a pretty significant vote, ultimately, at its current $35 billion level. But as we debate the future of health for our children, I think we have a responsibility to think about it above and beyond the compromising process of the Senate.

I believe we have to think about it in macro policy terms and also—I know the word gets bandied around here on the floor, and it doesn't always have a lot of meaning anymore—in ''moral'' terms. We have a lot of difficulty sometimes translating what is moral in most people's eyes into legislation. But the fact is I heard Senators on both sides of the aisle, and particularly some of those most responsible for helping to negotiate this on the other side of the aisle—I have heard them say we have a moral imperative to take care of children's health care. I have heard them say we ought to be covering all children.

Of course, we ought to try to cover all children, but isn't it a shame that we can't seem to do that because it costs too much. The Senator from Mississippi came to the floor and spoke about this. He talked about how some want an increase of $50 billion or more and suggested that I approach this purely with an attitude where I say let's decide how many kids we ought to cover, and it does not matter what it costs, let's go pay for it. Well, that is a little bit of a misinterpretation of what I have actually said about it. I have said we ought to decide if we think it is worthwhile to cover all children, and then see if we can pay for it. I did not say pay for it no matter what. See if we can pay for it, but at least decide what your priority is.

If your priority is to cover children which is an important moral imperative, it has a value to our society, it makes a difference to the lives of children, to the lives of the community, the cost of hospitals, the cost of health care, the ability to learn, the ability to grow up and be a full citizen, you measure those and you come to the conclusion hey, this is a good idea, we ought to do this for all kids. Then, you have an obligation to begin to weigh where the money comes from and what the choices are with respect to what you spend money on.

The Senator from Mississippi suggested we have to worry about the cost of the program and who pays for it. Yep, we do, I say to my friend. And he is a good friend, the Senator from Mississippi. We do have to worry about it. But let's measure what people appear to be worried about. Let's measure about why children's health care is a priority.

First, I want to do the ''why.'' What we do here with respect to children is not a Democratic priority or Republican priority. It ought to be the priority of every single Senator. I know most of the Senators here have families, have children, and are deeply concerned about kids and understand these issues.

The real face of this debate does not belong to Senator BAUCUS or Senator GRASSLEY or Senator ROCKEFELLER or Senator HATCH or anyone else who is here arguing about this. The real face of this debate belongs to young kids all across our country who suffer enormous debits on a lifetime basis because they do not have health care.

The face of this is somebody like 9-year-old Alexsiana Lewis and her mother, Dedra, who come from Springfield, MA. Senator KENNEDY—incidentally, I honor Senator KENNEDY's work in this, as we all ought to, because it was his visionary leadership that helped to create the S–CHIP program in 1997. He has constantly been working to build bridges to bring people together to try to sustain and expand the program ever since.

Senator KENNEDY and I went to the Children's Hospital in Boston, a famous hospital where kids come from all over our country. And the stories of curing and caring that are exhibited in that hospital on a daily basis are just extraordinary. Well, we met there Alexsiana Lewis and her mother. Alexsiana, 9 years old, was losing her vision due to a very rare eye disease. Her mother, Dedra, had lost her health insurance, like millions of Americans. We have about 45 to 47 million Americans who have no health care at all right now; 9 million of them are children.

Dedra lost her health insurance. Why did she lose her health insurance? She lost her health insurance because she cut back on the hours she was working in order to be able to take care of her child who had this rare disease. And here is what she said at that meeting with Senator KENNEDY and myself.

She said: ''If I did not have Mass Health right now''—that is the Massachusetts health program we have in place now funded by S–CHIP—''my daughter would be blind.''

So my question to my colleagues in the Senate is very simple: Somewhere in your States all across this country there is another Alexsiana Lewis, or there is another Dedra who is cutting back on her job. There are going to be about 5.7 million children who do not get any coverage when we finish passing this legislation.

Now, my question is, is that the choice of the Senate measured against

the other choices that we could make? Is it our choice that it is OK for an Alexsiana to go blind? Is it OK in your State for some child to have a chronic ailment who will not get the early intervention, the early care, and as a result will probably wind up with a lifetime impairment that will require that child to have special needs education for the rest of their life?

I went out to the State of Washington a couple of years ago. I had recently introduced my Kids First Health Care Plan. And we had about 1,200 people show up. The chief pediatrician for the State of Washington came to this event in Seattle. She stood up and told the story of a 12-year-old child who was disruptive in the classroom. Ultimately, they kicked the child out of the classroom because the child was disruptive. They thought the child was just acting out. Ultimately, that child finally, for the first time, got to a doctor and they found that the child was suffering, not acting out. The child had a chronic infection which spread to the eardrum, and this chronic infection was creating such pain that the child was acting out due to the pain. Now, at the final moment where they diagnosed what was wrong, they found out that child indeed would have a hearing impairment for the rest of that child's life. No health insurance and acting out in class leads to teacher responding and the child finally gets diagnosed as hearing impairment and will require special needs education. What is the rationale? What is the rationale for saying all we can afford is $35 billion over five years, at a moment when people across this country are losing faith in the ability of Washington to be responsible and make responsible choices on their behalf?

I think it is important that we answer that question properly. And I will tell you, when I look at some of the choices we have, it is pretty hard to answer how we are answering it properly. Let me give a few examples to my colleagues. This is a choice the Senate is going to make. If the alternative minimum tax relief is extended, as everybody expects it will be, tax cuts for those earning over $1 million a year will cost $43 billion in 2007 alone. Think about that.

We are saying we cannot afford to cover children to the tune of an additional $15 billion over 5 years, but we can give $43 billion of tax cuts next year to people earning more than $1 million a year. That is obscene. It is ridiculous. It has absolutely no basis in economic argument, and it certainly has no basis in any kind of moral or decent argument.

If you were simply to restore the tax cut to the level before 2001, to only taxable income above $1 million, you would have $44 billion and you could insure children. You would be affecting 0.21 percent, of all taxpayers with positive tax liability in the United States. That is one choice.

Here is another choice Congress seems to be content to make. Currently, major integrated oil and gas companies are eligible for the domestic manufacturing deduction, which reduces their corporate tax rate. In other words, we know fossil fuel is contributing to global warming, but we nevertheless are willing to continue our own dependency on it and give a tax break that encourages people to be able to do what they are going to do anyway because the marketplace is showing that the price of energy is such. These are some of the most profitable companies in the world.

But oh, boy, give them a tax break instead. There is absolutely no valid reason whatsoever that the most profitable oil companies in the world ought to be receiving a subsidy, a deduction, at this time when they are reaping record profits. But guess what, the Finance Committee tried to repeal it and the rest of the Senate did not agree. This deduction cost $9.4 billion over the next 10 years, but we do not have enough money for children.

We didn't close a loophole in our Tax Code for the poor fuel economy—we actually reward gas-guzzling SUV manufacturers. They get $13 billion worth of tax breaks to produce the most gas guzzling cars on the road, the worst fuel efficiency of any car, and we are subsidizing that over children. I do not get it.

I think most Americans, if they had a list of the things that the U.S. Congress gives to big business over children, would laugh at the language they hear when they hear people say: Oh, we have to cover children. There is a real value to covering all of these children.

Here is another one. Most American families do not get this one. If you are a company, you can defer paying U.S. taxes on any foreign income. So you can be an American company and just keep your income drawing offshore, and you do not pay any tax. It can accrue year to year. And repeal of this provision is about $53 billion over 10 years. Also, it is a huge incentive for companies to take their, you know, subsidiaries and other companies offshore and just grow their profits offshore at the expense of American jobs.

There is a long list of choices, similar choices: $12 billion a month in Iraq, going into the sixth year of the war in Iraq; now we are in the fifth year of the war, now a policy that everyone in the world understands is not working. I believe there is a better proposal.

Now, again, I say $35 billion, of course, is better than nothing. But it is incredible to me that we are in this position where the administration is talking about vetoing $35 billion, and we are not willing to do what is necessary to really get the job done.

Let me say that I am pleased that there is a provision that I authored with Senator SMITH and Senators KENNEDY and DOMENICI to ensure that there is mental health parity in this State Children's Health Insurance Program. And parity for mental health treatment is a very significant and very much needed improvement in SCHIP.

Instead of discriminating against mental health, which is effectively what we are doing today, we can offer services that actually improve children's performance in school, that keeps them out of trouble in the juvenile justice system, and helps them lead better lives, filled with a lot more opportunity and promise.

But $35 billion over 5 years, let me ask colleagues to measure that. Why have we decided to spend $35 billion at all? Why do we have a program called the Children's Health Insurance Program? If it is worth spending $35 billion, doesn't the same rationale apply to the rest of the children who do not have health insurance?

Where is the big hand of God coming down and saying: You all over here, you get health insurance; and you over here, you do not because we think it is more important that millionaires get a tax cut. We think it is more important that gas-guzzling vehicles get a tax break, and we think it is more important that oil companies with the biggest profits in the country get their money. That is the choice. That is what is happening.

We have some colleagues who just do not want to bend. That is why this agreement had to be reached. I understand the Senator from Iowa—I am not blaming Senator GRASSLEY from Iowa. I respect what he has tried to do. He held the line to get the $35 billion.

I respect what Senator BAUCUS had to do because we are struggling to get votes. If you don't get over 60 votes, you can't do something. But I think some of those folks who are reluctant to sort of embrace reality ought to step back and question this.

Let me come to another point. I have told my colleagues how we pay for this. First of all, the $35 billion is paid for with a cigarette tax. The cigarette tax I am in favor of, but we know, unfortunately, it is also regressive in a certain way, though hopefully it deters people from smoking. But a whole bunch of poor folks and folks moving to the middle class or folks in the middle class are stuck with their habit and smoke, and they are going to pay a lot of that tax. We would love it if it stopped them from smoking, but we all know that is not going to happen automatically. So here we are looking at how else could you get more kids covered.

What is important about my amendment is that it covers the kids who are eligible for Medicaid. It has a more efficient avoidance of the topic we have heard debated, the crowd-out. People are talking about not encouraging people who currently have private insurance to drop the private insurance to get covered by the State insurance. We obviously don't want that to happen. The fact is that my amendment targets the coverage toward those at 200 percent of poverty or below. So you are mostly targeting Medicaid-eligible children. It is astonishing to me that those are the kids most in need of it, and they are still left out if we don't

pass this amendment. We are trying to get the poorest of the poor. We are trying to get the kids on Medicaid. We still don't fully cover the kids on Medicaid with the $35 billion, even though, obviously, it is an improvement. I will vote for the improvement, and I will vote for the bill. But I still believe we ought to be doing more.

I just went to Fall River, MA, the other day to visit a bunch of workers. We have 900 workers there who have been laid off permanently, let go from a plant, Quaker Fabric, that closed. It closed, incidentally, on a weekend's notice, despite the fact that we have a law about plant closings. They are supposed to let workers know ahead of time what is happening. I went to visit with these people. The biggest single question on their minds was: What am I going to do about my health care? How am I going to cover my kids? What am I going to do? I met people who worked there for 35 years, 27 years, 25 years, all at the same place. They were loyal to the plant, and their 2-week vacation started on a Friday. On Monday, they got a call and they were told: The plant is closing. Sorry. That is it. What is more important—covering their children or making sure people who earn more than $1 million a year get $43 billion worth of tax cuts?

Astonishingly, the President of the United States is threatening to veto new money for this program. Even at $35 billion, he is threatening that. That means the choice the President wants to offer is either Congress can do not enough or do nothing at all. I don't think that is the appropriate choice.

The President has also initiated a disinformation campaign—I guess disinformation campaigns are not new, but it is another disinformation campaign—to denounce this bill as a larger Democratic strategy or plot to somehow massively federalize medicine. I understand the President offered to veto it before he had even read it. Confronted with a bipartisan compromise to extend health coverage to half of the 9 million American children without insurance today, the President apparently only sees some sort of a leftwing conspiracy to try to federalize health insurance. It is almost laughable. I don't think anybody really believes that is what is about to go on, but it sure is one of those scary phrases that create a knee-jerk response in certain sectors of the body politic.

The SCHIP program is, like Medicaid before it, a Federal-State partnership. It is not a Federal program; it is a Federal-State partnership. Ironically, it happens to use private providers as the principal people involved to provide the service. So it is a Federal-State-private sector partnership. It is very hard to understand how the specter of ''federalism'' somehow can get in the way of that.

Another misleading statement we have heard is that SCHIP is a Democratic Trojan horse for socialized medicine. I have to laugh at that. I was here when we did the 1994 debate on health care. I did not sign on to the plan that was offered by the White House in 1994. There were a number of problems. It doesn't matter what they were. I didn't sign on. I worked hard with Senator Bill Bradley, with Senator John Chafee, Senator Bob Dole, and others. We had a compromise that, in fact, if it had been adopted, it had a back-end mandate with the private sector being tapped to provide additional health insurance to Americans. I believe we could have passed it, but there wasn't the mood for a compromise at that point in time. Had it passed 4 years ago, we would have been at about 99 percent of Americans covered by health insurance. That was the opportunity which was missed.

But one thing I learned, you ain't going to see socialized, Government-run health care in America probably during our lifetimes. It is just not in the makeup. There are plenty of ways to put health insurance out there that are more affordable. I offered one of those ways in 2004. That is as viable and as urgent today and, frankly, as compelling today as an approach where you can reduce the cost of all premiums, take catastrophic health insurance off the backs of businesses and Americans, and lower the cost of health insurance, provide unbelievable streamlining of the delivery of the system, and let every American choose where they want to go. It is far more efficient than what we have today.

This red herring, phony debate, straw debate is inappropriate to the cause of children. It doesn't do justice to any of us.

It also is ironic that some of the most significant efforts to expand the Children's Health Insurance Program have come from Republican Governors. The President's former budget director, Mitch Daniels, the current Governor of Indiana, has recently expanded eligibility for children's health insurance to 300 percent of the Federal poverty level or roughly $60,000 for a family of four. Something is seriously wrong when as good a numbers-cruncher as Mitch Daniels and as tough a budget critic, as we all know, can go out to Indiana, which is a pretty centrist conservative State, and wind up expanding health insurance for kids up to 300 percent of poverty. There is a real disconnect in this debate.

The President likes to claim the new program is somehow going to push families like those from private insurance to government health care. But Governor Daniels and a lot of Governors like him understand that is not the case. With the cost of private insurance for that same family approaching $12,000 a year, the real choice for most American families today is either SCHIP or no health care at all because of the current rise in costs. In fact, the National Governors Association this past week sent yet another bipartisan letter to the President stating their support for the bipartisan reauthorization bill that provides increased funding for SCHIP now moving through the Senate.

Finally, SCHIP is not Government run. The vast majority of SCHIP and of Medicaid enrollees receive their coverage through private insurance plans working under contract with the States to administer benefits. So, far from socialized medicine, it represents the kind of commonsense public-private partnership that ought to be a model for greater health care reform.

A lot of families I have met all across the country are scared they will not have adequate health care for their kids. The President's response to that was—I think about a week ago—Well, they have health care. They can just go to the emergency room. I don't know how many Senators have been to emergency rooms lately. First, they are all overcrowded. I know that at Mass General, which is one of the best hospitals in America, in Boston, sometimes it is so crowded it takes hours to get people processed except for the most traumatic who come in. You have people on gurneys in the halls of hospitals all across America, different waiting periods. It is extraordinary what has happened. The degree to which emergency rooms have become the primary care facility for Americans is shocking. Hospitalized children—this is important—without health insurance are twice as likely to die from their injuries as those with coverage. Uninsured kids are only half as likely to receive any medical care in a given year.

We all go to schools and talk to teachers, and we go into communities. We have townhalls, and we listen to voters. I can't tell my colleagues how many times I have heard a teacher tell me how difficult it is to teach a whole class of kids, which is usually an overcrowded class of kids, where many of those children don't have health care. We know that kids who have health care do 68 percent better in school. Here we are, a country that is struggling with an education system that is not keeping up with competitors around the world. We don't graduate enough scientists or engineers, researchers, and so forth. One of the things it is related to, in terms of the choices children have in their long-term education, is whether they get health care and screening early.

Someone who has health care is more likely to get an early diagnosis of whatever the problem is. If you are a child and you have an irregular heartbeat or a hole in your heart or you have some other disorder, early diabetes onset or even autistic tendencies, if you don't get to a doctor and the parent doesn't see those indices and isn't able to understand them for what they might be and get somewhere to get the care, the odds are that child is going to wind up costing everybody a lot more, not to mention what is going to happen to that child's life.

I hope my colleagues will take a hard look at this. I hope the President will

reconsider his decision to veto it. I know Senator BAUCUS and Senator ROCKEFELLER have negotiated the best bipartisan package they could. Again, I commend them for doing so. But here on the floor of the Senate, we have an opportunity to work our will as a Senate. We have an opportunity to make a different statement. I believe we ought to be investing at least $50 billion. The Senate passed in its budget—this is in the budget today—$50 billion for children's health care. The only reason it has come to the floor at $35 billion is because some people refuse to let it come out of committee or take any shape other than that at this moment in time.

The best way to finance that $15 billion is to do what is fair and to make one of those choices we are called on to make. There are countless choices in this budget. We have 27,000 pages or so—I think more than that now—of Tax Code that fill volumes. Most of those pages do not apply to average Americans. Most of those pages apply to those who have been able to lobby Washington, to those who have been able to bring their cause to this city.

These are children. Children's lobbies reflect a lot of different organizations, but it seems to me we have an opportunity to enroll the lowest income of uninsured children by increasing the bonus payments available to States so they meet or surpass their targets. We don't mandate them to do so. We leave the discretion up to the States. They have wide discretion with the waivers they have today as to how they administer the programs. They have proven themselves very capable and very creative in doing so.

I hope, as a matter of priority, we make a bipartisan down payment of no less than $50 billion toward health care coverage for all our children. The only excuse for not spending more is saying: Oh, we cannot afford that. When somebody says we cannot afford that, then you have to look at what we are choosing to afford. That is the real test of the balance of what we care about and of where we are willing to put our votes.

I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise for two reasons: one, to give the compromise that is before the Senate a defense against Senator KERRY's amendment; and then to comment on the bill generally, and mostly to comment to some of my fellow colleagues on the Republican side of the aisle in relation to what I consider unfair criticism of this compromise.

I do not rise to find fault with the goals Senator KERRY has put forth. I do not even find fault with some of his arguments about loophole closings. I might feel compelled to argue against the marginal tax increases he might want to have, but right now I will concentrate on his view of expanding this compromise, not questioning his motives, and not raising any question about the sincerity of his wanting to do more—except reflecting on the 4 or 5 months Senator BAUCUS and I have been putting this bill together, we have all had some rude awakenings.

Those rude awakenings are that what we put together as a $50 billion package, when it was first scored came back much higher than $50 billion. So to get everything everybody wants in $50 billion is very difficult. The other thing is a philosophy I had, that somehow with something less than $50 billion we would be able to cover every kid under 200 percent of poverty, and we found out that was not possible.

I am sure we both—from Senator KERRY's point of view and from my point of view—went into this whole discussion with a great deal of good intent and finding out that it may be a little more difficult than we anticipated.

So only with that caveat I ask Senator KERRY to consider, I now want to say why we ought to defend the compromise that is before the Senate.

I appreciate Senator KERRY's goal of covering more kids. The bill we have today insures 3.2 million kids who do not have coverage today. I am very proud of that effort, and I am not going to warm to any suggestion that we have not done enough. The Finance Committee bill does so through a new incentive fund, and it is a proposal both sides of the aisle support. It is a compromise.

The incentive fund is a product of months of work. We built on ideas that were formed by another bipartisan couple—Senator ROCKEFELLER on one hand for Democrats, Senator SNOWE on the other hand for Republicans. We took those ideas that Senator ROCKEFELLER and Senator SNOWE had and reshaped them into what we think represents a very efficient and cost-effective way to increase coverage for children.

As Senator KERRY may recall, during the markup of the Senate Finance Committee, the Congressional Budget Office Director Peter Orszag characterized the incentive fund "as efficient as you can possibly get per new dollar spent."

Simply throwing money at States is not an effective strategy for covering more kids. Cost is an object. The bill that is moving in the House does cover 1 million more kids who are not currently covered than the Senate bill. But they do so while spending $12.2 billion more than we do—getting back to the efficiency and effectiveness statement of the CBO Director Peter Orszag. I will leave it to my colleagues to decide for themselves whether they think $12.2 billion for a million kids is cost effective. But I can assure you, the cost will leave us then—if we do that—without a bipartisan bill, and maybe not the chance of getting anything through, other than an extension. It has been stated, even from our Republican colleagues who do not like the waiver process, that is bad policy.

The Finance Committee bill then—I am begging Senator KERRY to understand—is the best of the possible. The left wants more; the right wanted a lot less. We can make speeches or make legislation. Making speeches does not get any kids covered. Making legislation does. Our compromise does that.

I urge my colleagues to keep on the right track for making legislation; that is, doing the art of the possible. I oppose this amendment and urge my colleagues to do the same.

Now, Mr. President, I would like to speak on the bill. I start out by referring to a chart that I hope we have in the Chamber that has been used by a lot of Republican colleagues over the last 2 or 3 days. This was in relation to speeches that were given yesterday by many of my colleagues who are sincere in their approach.

They refer to this as the "cliff chart." Everything to the right of the green is after this legislation expires. They want you to believe we do not take into consideration anything about the future. They are making out this is an unrealistic proposal we have before you, because following that red line up into the future, they maintain it is going to cost more than we can afford. I want to say how this approach is intellectually dishonest.

I have a tremendous amount of respect for the Senators who have been giving these speeches, and I can identify a couple. There are probably more who have been giving these speeches, but I want my colleagues to know I respect Senator GREGG, the ranking Republican on the Senate Budget Committee. The Senator from Mississippi, Mr. TRENT LOTT, our assistant minority leader, I think has referred to it. I respect his views. But I think everybody ought to take into consideration what we are going to do. I have a chart that is going to lay this out.

In this particular instance, we clearly are on different sides of this argument. There has been a lot of talk around here about how the Senate Finance Committee bill is funded. This chart was used in that discussion. Taking a hard look at how bills are financed is a good thing. Maybe we do not do that often enough. So let me focus on the criticism that has been made about how this SCHIP bill is financed. We need to step back and look at the whole picture. That is what I am begging my colleagues to do. The SCHIP program is a pretty small part of that picture.

The thing about SCHIP is that it is not like Medicaid or Medicare. How many times have you heard the people using this chart refer to it as if it is an entitlement? It is not an entitlement we are discussing today. Or maybe if people do not understand the term "entitlement"—it is not a permanent program, such as Medicare and Medicaid because they are entitlements. SCHIP is not. So when the program expires, it truly ends. The day after the authorization ends, poof, there is no more SCHIP program. That is true of any program that sunsets. But Medicare

and Medicaid do not sunset. They are entitlements. SCHIP is reauthorized for 5 years. That is 5 years on top of the original 10 years it was authorized. So this year it is sunsetting. That is not an entitlement. It is an expiring program.

While I know most of us in this Chamber would no sooner let the Department of Defense expire than we would let SCHIP expire, that is a simple fact. And because it is an expiring program, it is subject to a very particular budget rule. That budget rule does not fit this chart. That budget rule says the Congressional Budget Office must score future spending for the program based upon the last year of the program's current authorization. So the baseline for SCHIP for the next year is $5 billion. That is under existing law. If we pass this legislation, that would not be true. But for what is law right now, in the future, they are going to score that at $5 billion. For the next 5 years, the baseline—let me say again—is $5 billion. For the next 10 years, the baseline for SCHIP is $5 billion. It is actually $5 billion a year forever.

Does anyone in this Chamber think the budget rule governing SCHIP is realistic? Well, of course it is not realistic. But that is the way the budget process and the Budget Office must work under existing law. So I am not here to kid anybody.

According to the Congressional Budget Office, 1.4 million children would lose coverage if we simply reauthorized SCHIP at the baseline of $5 billion into the future. Who among us would go home and tell our constituents that we individually voted to reauthorize the SCHIP program—reauthorize it, yes. If you stopped there, they would think: Well, you did a good thing. What you are doing right now, you continue to do. But if you did that, what you would be doing, without telling them—but they would soon find out; you do not fool the American people—1.4 million kids would lose coverage.

So when the Finance Committee went to work to reauthorize this bill—Senator BAUCUS and I, with the help of Senators HATCH and ROCKEFELLER—we had this problem: The baseline only assured $5 billion a year in spending into the future. It was unrealistic.

Let me digress and point to a problem the Agriculture Committee has this year exactly the same way. We did not spend all the money in the agriculture bill last year, so we are working on a baseline that is $15 billion less than it was in 2002, the last time we wrote a farm bill. So this is not just the case of health care for kids. A lot of committees get caught this way.

But we do have the realistic fact that costs continue to increase in SCHIP, even though the $5 billion was frozen in the baseline because of the budget rules.

So what did we have to do? We had to come up with the money to keep the current program afloat. That meant we had to find at least $14 billion to keep the current program afloat. That is right, of the $35 billion in funding in this bill, $14 billion is put into SCHIP to maintain the current program. That is $14 billion to maintain coverage for kids who are currently enrolled.

Do you know what the White House wanted us to believe all this year since they submitted their budget? That you could do that $14 billion—maintaining the current program—for the $5 billion they put in their budget.

Now, those people down at OMB have to be smart enough in advising the President that you cannot do for $5 billion a policy of doing what we are doing now, and even expanding a little bit, for $5 billion when, in fact, it costs $14 billion. To a very real extent, this is the same kind of situation my good friend from New Hampshire, Senator GREGG—when he was speaking—was complaining about. The current baseline was not realistic. That created a hole in the budget we had to fill. In our case, it was a $14 billion hole to fill, if you want to maintain current policy.

So what did we do? Well, we did what you have to do if you are responsible and deliver on what you say you are going to do. We filled it. It is that simple. We had to comply with the budget rules.

What people forget around here is the Director of the Congressional Budget Office is like God, and everybody who works in the Budget Office can also be little Gods because what they say has to be followed, and if you don't follow it, you know what you have to do? You have to do almost the impossible around here. You have to have 60 votes to get around it. Should they have that much power? Well, if you are going to have any budget discipline, they have to have that kind of power. But it is that simple. We had to fill that hole. We had to comply with the budget rules, so we did. Do those budget rules make sense? Well, I think I have indicated they probably don't, but that is a question for the Budget Committee to answer, Senator GREGG's committee, Senator CONRAD's committee, not the Finance Committee. We have to abide by it.

There is another budget rule that the Finance Committee was required to follow. That rule is called pay-go, which people around here know is short for pay-as-you-go financing. It means the bill needs to cover its 6-year costs and 11-year costs, and that makes sense after all. This bill proposes new spending, and because it proposes new spending, you have to pay for it, or have 60 votes. This bill does pay for it. This bill complies with the budget rules. It complies with the pay-go requirements.

Now, the SCHIP reauthorization we are debating is only a 5-year authorization. That means 5 years from now it will sunset. Congress will have to go through the process of reviewing it. To remind people it is not an entitlement, Medicare and Medicaid doesn't get a review every so often forced upon them. They may get a review by Congress but instituted by Congress, not forced upon Congress by a sunset.

As I think everyone knows, this bill is paid for with an increase in the tobacco tax. This is similar to the original SCHIP bill when it was created under the Republican-controlled Congress in 1997. Now, similar to 1997, when the Republicans did it, we had a problem with how the tobacco tax works. The revenue from the cigarette tax is not growing as fast as health care costs, so that means the revenue-raiser is not going to grow as fast as the cost of health care, generally, and specifically in this instance, the costs associated with the Children's Health Insurance Program.

So the Finance Committee did what was required to do to comply with the pay-go budget rule. The Finance Committee bill reduces SCHIP funding to just below the funding that is in the current baseline. That means the Finance Committee in 5 years will have the same problem we face in putting this bill together today. They will have to come up with the funds to keep the program running because the tobacco tax over the years is not going to bring in enough revenue to keep up with the increased costs of health care. That is just like the $14 billion we had to keep and find to keep the current program running with no changes.

It is true we are covering even more low-income kids in this bill. That is a good thing. But it also means the Finance Committee in 5 years will have a bigger job to keep the program running at that rate. They will have more kids to keep covering and health care costs will be even higher than they are today. This is for the Finance Committee to face in the next 5 years. Of course, during that 5-year period of time, I hope we get a lot of reform of health care in the United States that reduces costs, gets the uninsured covered, so we are not just dealing with SCHIP. Of course, what we have to face in 5 years is similar to the job the Finance Committee had today to continue the SCHIP program. So it is nothing new. But I think some are getting the impression from some of my colleagues who use this chart that this is something new—some gimmick to get around budget rules. But my good friend from New Hampshire, Senator GREGG, has expressed serious concern about the bill, and I think we should at least take a moment and look at his concerns in proper perspective.

So I go back to one of the charts Senator GREGG has used. Here is the chart used to raise the issue. It shows only the funding in the Finance Committee bill. I think looking at it like this paints a distorted picture. As we all know, the SCHIP program was created to supplement the Medicaid Program. The goal of the program was to encourage States to provide coverage to uninsured children with incomes just above Medicaid eligibility. So to put my colleagues' concerns in perspective, we

should look at SCHIP spending as it relates to Medicaid spending. So I would like to draw my colleagues' attention to a new chart that represents figures for the future from SCHIP, as well as from Medicaid, so everyone can fully appreciate the consequences of our SCHIP bill in the context of the Medicaid Program, which SCHIP supplements. So take a closer look.

Let's start with this little green line at the bottom. That is current law, the green line that goes along the very bottom of the chart. It is a pretty straight line across the chart. The green line represents the SCHIP baseline under current law. As I have already discussed, it is $5 billion each year for the next 10 years and as far into the future as you can go. If you don't change the law, that is the way it is.

Now let's look more closely and honestly at the actual problems we are facing. The massive orange area, as indicated, above the green line is Medicaid. This is the projected Medicaid spending for the next 10 years. It is a lot bigger than SCHIP. Then, on top of that, we are looking to add new spending for the SCHIP bill, and that is the blue line above the Medicaid indicated by the orange. Again, it is not very big. It is quite obvious it is not very big. As you can clearly see, costs are growing at a rapid pace overall. The overwhelming driver of the costs is what? It is Medicaid. We have a very big problem. Entitlement spending is growing, and in future years we are going to struggle to keep these programs afloat. That is why I would not agree to do a $50 billion SCHIP bill. I thought it was too much spending. I am not particularly happy with spending $35 billion, but as I have said, this bill is a compromise, and it is $15 billion less than what the Democratic budget approved.

So let's focus on the total obligations of the Federal program. This chart, when you look at the whole picture, puts things in perspective. Now, remember, all that fire and brimstone about the awful cliff that was on the previous chart, the awful cliff that this bill brings before the Senate, where is that cliff, you might ask, on the chart I put before my colleagues. If you look closely, right here where the blue line on top goes down gradually to beyond the green line, if you look at the blue there where it dips down a little bit, that little dip to the right of the dotted vertical line is what my good friend from New Hampshire is so exercised about. So this little blue line is what the debate is all about. The little blue line is this legislation before us. The little blue line is creating all this rancor. But it looks a little bit different here, doesn't it, than it did on that cliff chart I showed you ahead of time.

Let me tell my colleagues then what the Finance Committee bill—this little blue line—is not; not what it is but what it is not. Looking at this dip, this is not a government takeover of health care. Looking at this dip, this is not bringing the Canadian health care system to America. Looking at this dip in the blue line, this is not the end of the world as we know it.

While I concede that allotments under our bill in the years beyond the 5-year reauthorization do not behave as described in my friend's chart, I don't think it warrants the heated rhetoric we are hearing during this debate yesterday and today and probably tomorrow. SCHIP is not the real fiscal problem we have. The problem is the big orange area. That is Medicaid. The ranking member and I worked together—I am referring now to Senator GREGG, the ranking member of the Budget Committee. He and I worked together last year on the Deficit Reduction Act to try to rein in Medicaid, and I am proud of the work we did. We also found out how hard it is to dial back entitlement spending, even in a Republican-controlled Congress and even with special procedural protections we call reconciliation. We only succeeded in shaving $26 billion over a 10-year period on Medicaid spending.

The problem of entitlement spending is still there, and SCHIP is a pebble next to the boulders of Social Security, Medicare, and Medicaid. Do we have a funding issue? Yes. There is no denying that. We had one today that was the $14 billion hole that we had to fill if we were going to do what the President said he wanted to do with $5 billion. The Republican Congress created that hole in 1997, I am sad to say, but the Finance Committee filled that hole and produced a bill that complies with the budget rules. I am confident the Finance Committee in 5 years will do the same thing.

I think it is also important to point out we have so many far bigger problems in health care today that we need to deal with. If I am supposed to infer from Senator GREGG's speech that this is supposed to be the opportunity to do something about the problems of entitlement spending, I should point out the obvious: The substitute we expect to vote on does absolutely nothing about the entitlement spending but make a big deal out of it.

So I appreciate Senator GREGG's remarks. They are not without some merit, but you have to put them in context. I don't think they fit the crime we are accused of committing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I request time from the Democratic side.

The PRESIDING OFFICER. There are no controlled time limits at this time.

Mr. REED. Mr. President, first let me begin by commending Senator BAUCUS and Senator GRASSLEY and their colleagues, Senator HATCH and Senator ROCKEFELLER, for extraordinary work. This effort represents great legislating based upon principled compromise to achieve a noble objective, which is to provide health coverage to the children of America. I can't think of a more laudable effort than that which has been led and spearheaded by both Senator BAUCUS and Senator GRASSLEY. They deserve our praise and our support.

I am here today to lend my support to the expansion of the CHIP program, the Children's Health Insurance Program, to support this endeavor which is so critical to the health of the country, literally and figuratively. It is not only a sensible policy in terms of investing in children, it is also morally compelling.

What more lofty objective can we have than to give children access to health care, to be able to grow up in this country knowing they can receive medical attention when they need it?

We are in a situation now where, remarkably, the Nation's level of poverty is growing. It is higher now than it was in 1970. We have not had a President since Lyndon Johnson try to tackle this issue head on. This bill recognizes that there are families who don't have the resources to buy health insurance, but they have a claim as Americans and as citizens to at least have their children covered. I hope we can do that by passing this legislation.

It is estimated there are 37 million Americans in poverty, 13 million of whom are children. These are not merely statistics; they are our neighbors in every State in the Union. They are youngsters who we hope one day will grow up healthy and strong to participate not just as workers in this economy but as productive citizens of this great land. To do that they need access to health care.

We also know that children without access to health care fare very poorly in school and have difficulties. These difficulties become more and more complex, and they compound over the years. In fact, one of the strongest arguments for this legislation is that it makes sense as an investment. It is better to pay now rather than later, in terms of social disruption and serious health problems. That is something I hope even the most hard-nosed colleague in the Senate will appreciate.

One of the consequences of this issue of growing poverty and the bifurcation of income between the rich and the rest of us in what we all consider to be the ''land of opportunity,'' sadly, is that opportunity is not as evident or as palpable as it was in the past. One of the great engines of opportunity for any individual, in addition to education, is health and the ability to seize these opportunities—work, education, and service to others.

Again, I think this is an incredibly important piece of legislation. We have to do more. We have to recognize there are families who are working two jobs—mothers and fathers working 50, 60, 70 hours a week—and still they don't have the resources necessary to pay for the increasing cost of health care for their children or themselves. They are squeezed between paying the rent, providing food for the family, and

are looking, many times, for ways to cover the cost of health care for their children.

I am very proud to have been one of the original cosponsors of CHIP in 1997. We were fortunate in Rhode Island to have on the Finance Committee Senator John Chafee, who was one of the leading advocates of the program. As Senator GRASSLEY suggested, this program was crafted with a bipartisan effort in 1997, and one of the great leaders in that was John Chafee. In many respects, we are here today—both of us—to renew his commitment to the children of America.

Over the past decade, this program has been an unequivocal success. It has reduced the number of low-income uninsured children in this country. It has done what it said it would do, and it has done it well. In Rhode Island, we have a combined Medicaid/CHIP program called RIteCare. Our program has been instrumental in reducing uninsured children, and it made a difference for hard-working families in my State. While this program made great strides, there is still much more work to be done.

I want to take a few moments to address some of the issues raised about the Senate Finance Committee agreement and talk to some of the points raised in this Chamber criticizing that agreement. I believe this agreement is not only sound policy, but it addresses a major concern in the country. The proposal before us would achieve several key objectives supported by the overwhelming majority of Americans.

First, it preserves coverage for all 6.6 million children presently covered under the CHIP program. Second, it renews the original intent of the program by making a real commitment to cover an additional 3.2 million children who are eligible for coverage but not enrolled. These two important goals are achieved by allocating $35 billion over 5 years. The original program was financed through the Federal cigarette excise tax, and the proposal before us continues to use this mechanism.

The bill also addresses a problem with the formula that was beginning to plague a growing number of States, including my State of Rhode Island. Last December, I joined a number of my colleagues in crafting an agreement to redistribute unexpended funds from some States and redirect them to States, such as Rhode Island and Georgia and New Jersey, that were rapidly approaching budget shortfalls because they exceeded their CHIP allotment.

The Finance Committee, recognizing this issue, has made a proposal that institutes needed changes in the formula used to calculate State CHIP allotments so Congress is not required to resort to eleventh hour deals to shift money from one State that hasn't used it to other States. That is an important change to the legislation. The bill sets aside a portion of funds in case of contingencies, such as what was experienced during Hurricane Katrina.

Lastly, the bill tackles a challenge that States have been struggling with since the CHIP program began 10 years ago; that is, reaching children who are uninsured and eligible for coverage but are not enrolled. The bill provides incentive funds and flexibility for States to overcome the many economic, social, and geographic barriers that hinder millions of uninsured children who deserve health insurance coverage.

My home State of Rhode Island is a perfect case in point. While Rhode Island ranks 10th nationally in the lowest number of uninsured children—we are very proud of that; in fact, we would like to move up in the ranking from 10 to 1—a recent report by Rhode Island Kids Count indicates that of the estimated 18,680 uninsured children in the State, 11,275 of them were eligible for children's health insurance coverage but were not enrolled. We should enroll all eligible children; that should be our goal. We have to reach these children and, frankly, this legislation will help States become more proactive and successful in enrolling children.

There has been criticism directed at the bill. Let me take a moment to respond to some of the criticism. There has been concern about the cost of the package. I understand that alternative versions of the Children's Health Insurance Program reauthorization will be offered by others in the Chamber during this debate. Some of these bills will have very enticing names, like Kids First, but we should not be fooled by it. The substance of these amendments does everything but put kids first. It won't even maintain the minimum coverage that we have today. Some of the 6.6 million children who are enrolled today will lose out in these alternatives. Rather than expanding coverage, it will contract coverage. We don't want to head in the other direction; we want to move forward.

Similarly, others have balked about the $35 billion price tag. I remind my colleagues that our Senate budget resolution allocated $50 million for children's health insurance coverage. The Senate Finance Committee, the chairman and ranking member, labored mightily and came up with the best possible proposal they could get through the committee, and it is a principled proposal. I salute it. But I was disappointed that the committee left on the table $15 billion that could have been used to insure more children. I have joined Senator KERRY in his amendment to restore it. Again, in terms of our budget priorities, the proposal before us today is even less than what was supported in the budget resolution. For those who say it is too expensive, that suggests this hasn't been very carefully considered and indeed it was, unfortunately, somewhat winnowed down.

Perhaps the most poignant reference is that, while we were talking about $35 billion over 5 years for children's health, we are spending $10 billion a month in Iraq. That says a lot about how we have to begin to reshape our priorities. I don't believe we are spending too much on children when it comes to this particular legislation.

Some have expressed displeasure over using the Federal cigarette excise tax to finance the package. The bill would gradually raise the tax 61 cents, up to $1, over a 5-year period. This is consistent with the original financing mechanism for the Children's Health Insurance Program in 1997. But there is something else interesting here. Cigarette smoking has been identified for decades as one of the chief public health problems in this country, particularly when children start doing it. It is a threat to the health of the Nation, and I doubt if there is anyone in this Chamber who has not had at least one family member's health affected adversely by smoking. I listened to Senator ENZI speak passionately in the Senate Health, Education, Labor and Pensions Committee last week about his father's smoking, which led to his demise, and it also affected his mother.

When you raise the price of a product, you curtail the amount of it that is purchased. We are using market forces to help us do something that we should do: reduce the rate of cigarette smoking. Using market mechanisms in this way, not only to raise resources for health insurance for children, but to lower the number of people who engage in smoking will save public health dollars that are being spent to care for people who have lung cancer, emphysema, and other respiratory diseases caused by smoking.

There is another concern that has been raised, which is that the agreement grossly expands the CHIP program to parents and childless adults, when in fact the bill does quite the opposite. The bipartisan agreement actually ends the administration's practice of providing States waivers to cover parents and childless adults. To date, 14 States have received waivers to cover parents and childless adults, including my State of Rhode Island. In fact, Secretary Leavitt just approved a 3-year extension of Wisconsin's waiver allowing adult coverage. Frankly, I believe that States deserve the ability to take these steps. I am disappointed that more States won't be able to do it. This bill acts as a check on that administrative authority. It deliberately, at this time, restricts the number of parents and childless adults who can join this coverage.

As my colleague, Senator MENENDEZ, mentioned earlier, research shows a strong correlation between parental coverage and the enrollment of eligible children. Once again, the policy behind enrolling parents is sound. But this bill, rather than grossly expanding parental coverage, begins to restrict that coverage. Under the agreement, States with existing coverage expansion waivers will be given a period of transition, and no new States will be granted the opportunity to extend coverage under CHIP. This seems like a reasonable response to these concerns, but I hope as

we go forward we might be able to look at the logic behind parental coverage policies as a way to ensure that the whole family—particularly children—are covered.

The proposal also rightly grants States the option to cover pregnant women. Good prenatal care is essential to overall child health and well-being, as well as reducing the number of low birth weight and premature babies. Given the fact that the United States is actually behind most developed countries, and even some developing countries, in terms of these indicators, this step is certainly warranted and overdue.

Finally, Members seem to have great consternation over the fact that children's health coverage produces some level of crowding out of private insurance coverage, and the bill is a giant step toward Government-run health care. Again, the rhetoric seems to be at odds with the reality of what is in this bill. I note that most enrollees in public insurance are actually covered through private plans, where States take the money and reimburse the private insurer. The Finance Committee proposal takes the additional step of including something called premium support. It essentially gives States the ability to offer subsidies for children who are eligible for CHIP coverage but have access to employer-sponsored coverage.

In my State, we have had this experience. We have a program called RIteShare. The program has enabled thousands of Rhode Island families who otherwise could not afford to remain in private insurance coverage to do so with a little help from the State. It is a marginal contribution to their private health insurance, which allows them to stay in the private market. This proposal, again, goes a long way toward addressing the issue of potential crowding out.

I believe this bipartisan agreement represents a very strong step forward to facilitate outreach and enrollment of low-income children. It is not a perfect legislative proposal, but it is an important one based on principled compromise. It reinforces our commitment to children's health. I am amazed the President is already suggesting he might veto it, despite overwhelming public support, and despite the compelling economics that are behind investing in children's health.

I hope that we will by our votes demonstrate that this is a bill which should not be vetoed but should be passed quickly so children can continue to enjoy access to health care in our country.

We all understand that our future is really about our children. They will be the leaders years from now, and we all hope and wish that they will grow up strong, able to seize the opportunities of this Nation. Beyond hoping and wishing today, we can help make that a reality by voting for this important legislation. I urge all my colleagues to join me in doing so.

Finally, I would like to take another moment. As colleagues, we come to the floor, we debate issues and legislation we have sponsored, but the details are worked out by staff members long into the wee hours of the morning. We read speeches prepared by very dedicated staff members.

I have the rare privilege of saluting someone who has worked with me for so many years. Lisa German Foster has been with me since January 1996 when I joined the Senate. She is leaving to pursue other endeavors.

She started in my office as an unpaid intern and has become recognized here as one of the preeminent staffers with respect to health care issues and one of the most decent and humane individuals one will ever meet. I salute her for her work on this bill, on child health and immunization, on the bone marrow registry, on tobacco legislation.

She is a native of my home State of Rhode Island, in Narragansett, but I think she is firmly ensconced in Washington, DC, with her husband Bill and children Aidan and Brady.

Lisa, on behalf of all of us here, thank you for your good work.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I join with those who assert that working Americans are carrying too difficult a burden when it comes to health insurance, that the governmental supplements and assistance we provide to help people get health insurance are aberrational, unprincipled, counterproductive, bureaucratic, and often just unfair.

A person's health care is more dependent on where he or she works than anything else. If you happen to work for the Government, you are in pretty good shape. If you work for some big company, you are in good shape. But people live in fear that they might lose their job, and more than just losing their job, they may lose their health care. They don't like that. Families are worried about it. People sometimes refuse to take better jobs because of fears that they will lose their health insurance.

Prices are exceedingly high for people who are not part of big plans, Government programs and policies, and big company plans. That is just a fact. The same person can end up paying twice as much if they run a small business or work for a small business that doesn't provide insurance, and you cannot be guaranteed you will even get it. Sometimes the premiums are more than twice as much.

The President talked about this issue in his State of the Union Address when he talked about tax credits and ending the disparity we now have in health care. It is an absolute problem.

I was pleased to support the program offered by Senator ENZI, the small business health plans, the so-called associated health plans that would help small businesses to pool their resources and get cheaper rates. This could add 1 million people to our insured rolls without any increases in taxes.

We have a problem out there, we really do. So, sure, there is no doubt SCHIP is helping children in need, and there is no doubt our current system is not working fairly and something must be done to fix it. But just adding to this bureaucratic program without any principled fix in the abuses that are contained in it strikes me as very odd. I do not approve of it. I just do not approve of that at all.

It is a system that is brutal on the self-employed, brutal on the person who works for a small business that does not provide insurance. It is not legitimate, it is not right, and we absolutely need to do something to fix it. This odd program that came together some years ago was never, in my view, a particularly sound program. It is just maybe an attempt to fix something that won't work.

What we really need, if my colleagues want to know the truth, is a program to allow all Americans to have an insurance policy that is not dependent on where they work. We should allow them to pay tax-free dollars just like employers can. If they have lower income, the Government helps them make the premium payments and they keep that policy whether they are working or they are not working. They take it with them, and they are not being terrorized all the time by the fear of losing their health insurance.

We can do that. Senator COBURN has talked about this idea, I know, and Senator CORKER, Senator DEMINT all those who worked on this issue. The Department of Health and Human Services worked on it. We ought to be doing that. That is what we ought to be thinking about and talking about instead of putting new wine in old wine bottles, trying to reinvigorate a program that has some fundamental problems and, as I am going to point out, is unprincipled and counterproductive in a number of ways.

I believe we absolutely could have a portable plan of health insurance which would be something that would excite all Americans and make people feel so much more comfortable with their health insurance. That is what I would like to see us move to.

It is said that this is not an entitlement, but it is close to an entitlement. If we are not making needed reforms to preserve this benefit for those in need, why isn't it an entitlement? Who is going to cut and eliminate health care for children and those in need? We are missing an opportunity to have real reform now.

I know one can argue this case a lot of different ways, but I will just say, when we have my wonderful colleague, Senator GRASSLEY, whom I admire so much and who is personally a very frugal person, saying: Well, this chart which Senator GREGG, the former chairman of the Budget Committee, produced showing that when it is

scored out here, there is no money for it after the fifth year, as if it is going to drop to virtually zero—we know that is not going to happen, and, in fact, Senator GRASSLEY said we will have to find the money 5 years from now. But they wrote the bill in that way so it wouldn't score as costing as much as it is really going to cost. It is a gimmick. It is a classic gimmick, that is exactly what it is. It is a bit discouraging, I have to tell my colleagues, when I have a colleague I admire as much as Senator GRASSLEY taking that position on the bill.

Let me ask a few questions about this legislation that point out some of the failures in principle and good policy.

If this is a children's health insurance program, why does it cover adults? There is no ''A'' in it; it is SCHIP; it doesn't say adults. Clearly, SCHIP has been abused by some States that have expanded the program to cover adults when the goal of the program from the beginning was to cover children. That is what people talk about. In fact, there are 670,000 adults participating in SCHIP. Some States are spending over half of their SCHIP money on adults, including adults without children. One-third of covered adults are not even parents.

One might say: Why do you care that the State has this program? Because the Federal taxpayers are paying 65, 70, 80 percent of it. It is a federally conceived program and substantially federally funded program.

Fourteen States provide health insurance through SCHIP, the State Children's Health Insurance Program, for adults. The Government Accountability Office—that is our watchdog analysis group—reports that nearly 10 percent of SCHIP enrollees nationwide are adults. In Wisconsin, 66 percent of enrollees are adults. Seventy-five percent of the SCHIP funds are spent on adults, and we pay the bulk of that money. Sixty-one percent of the funds are spent on adults in Minnesota, where 87 percent of enrollees are adults, according to the Heritage Foundation. Illinois spends 60 percent of their money on adults; Rhode Island, 57 percent; and New Jersey, 43 percent.

This year, 13 percent of all SCHIP funds will go to adults who are not expectant mothers. About 30 percent of these adults are not even parents. Of the 14 States projected to spend more than they were given, allocated in 2007, 5 cover children not considered low income, and 5 cover adults other than expectant mothers.

The CMS goal and HHS goal was to end the adult waivers by 2009, but this bill basically blocks the ability for that to happen.

No. 2, I ask this question: If this program was created to help lower income children, why are some States covering middle- and high-income children and adults? Isn't this an indication that the program has gone far beyond what its original concept was? Isn't this typical of big Government programs, how they grow and take over more and more, and pretty soon become a Government-dominated system?

I don't think that is the way for us to go. Rich States are getting richer under this program. States are not stupid; they have figured out how to make the program work to their advantage. If they have the money, they make it work to their advantage, if they can make their match. The definition of low income, therefore, has been manipulated. The SCHIP statute defines a low-income child—this is what it says:

> A child whose family income is at or below 200 percent of the poverty line for a family of the size involved.

So it is supposed to be for, and was created in the fundamental statute to be for, those at or below 200 percent of poverty. I will talk about what that means in a minute. That is a pretty decent income, but we are going way above that. However, States are allowed to disregard parts of a family's income. They can just disregard it. These income disregards can mean, for example, that $50,000 of a family's income simply doesn't count, making many more children and adults eligible who are not low-income people.

New Jersey disregards all income between 200 and 350 percent of the poverty level. How do they do that? I am not sure. They got a waiver, apparently. Senator ALLARD presented an amendment to fix the problem of income disregards. It was defeated, of course. New Jersey just disregards the income between 200 and 350 percent of the poverty level.

Ten States and the District of Columbia now cover children in families with incomes of up to 300 percent of the Federal poverty level. In those States, SCHIP provides health insurance for children in a family of four earning up to $61,950. That is a pretty good income. The program, in its current form, provides health insurance for children in those families. New Jersey has extended eligibility to $72,000 for a family of four—350 percent of poverty level. New York recently voted to extend eligibility to families of four earning up to $82,000—400 percent of poverty level.

This is supposed to be a program for the poor. It basically is a program for the poor in most States—it is in my State. Some legislative proposals on SCHIP would allow all States to expand SCHIP. Some of these proposals we are floating around here would allow all States to go to 400 percent of poverty level, which would make 71 percent of all American children eligible for public assistance through Medicaid or SCHIP.

This bill will allow New York to cover people at 400 percent of the poverty level. Now, the bill says 300 percent, and that is what they will say here on the floor, that it is 300 percent, but the grandfathered-in program covers New York, and they are at 400 percent, which means we will be subsidizing that.

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

Mr. SESSIONS. Yes, I would be delighted. I hope I am wrong.

Mr. BAUCUS. Are there any States that cover 400 percent of poverty?

Mr. SESSIONS. That do what?

Mr. BAUCUS. That cover children at 400 percent of poverty.

Mr. SESSIONS. I understand New York has passed a law that would do that.

Mr. BAUCUS. No, that is not correct.

Mr. SESSIONS. It hasn't taken effect yet, but I understand they have passed it.

Mr. BAUCUS. No. Is it true if a State wants to cover, say, above 300 percent of poverty, is it true the State has to get concurrence with the Secretary of HHS?

Mr. SESSIONS. Yes.

Mr. BAUCUS. Has New York received that concurrence?

Mr. SESSIONS. My understanding is that under the current law, the Department of Health and Human Services believes it may have to grant that waiver, and nothing in this bill would prevent it; is that not correct?

Mr. BAUCUS. Actually, I would not say it is 100 percent incorrect, but HHS has discretion, as HHS had discretion granting other waivers which the Senator is concerned with, and, frankly, this Senator is concerned with. As the Senator knows, this bill is designed to crack down on the effect of those waivers and prevent any future waivers with a lot of the adults I know the Senator is concerned about.

I wished to make the point that no State covers at 400 percent of poverty today. Secondly, if New York does seek 400 percent—if any State seeks 400 percent, it has to get the concurrence of the Secretary of HHS.

Mr. SESSIONS. Well, I will say this without doubt, Mr. President. Amendments have been offered, I believe already and will be offered, to make sure New York would not be able to get the 400 percent. Because the Federal taxpayers in my State of Alabama, where we provide SCHIP to children under 200 percent of poverty, we are going to be subsidizing that, and I don't see any reason for us to do that. But under this bill it can continue, if Health and Human Services is correct, and their lawyers tell them they can't deny this request.

I will agree they probably should have been more aggressive in denying some of these things and litigating, if need be.

Mr. BAUCUS. Will the Senator yield for another question?

Mr. SESSIONS. I will do my best to answer the Senator's question.

Mr. BAUCUS. I appreciate the willingness of the Senator to engage in a dialogue. Is it true, first, that the match rates States are getting; that is, the Federal proportion and the State proportion, are more favorable to States under the CHIP program than it is under Medicaid?

Mr. SESSIONS. I believe that is correct.

Mr. BAUCUS. The Senator is correct. That is correct. Is it also true that, on average, the differential is about 30 percent? That is, the match rate that States get under the Children's Health Insurance Program is about 30 percent better, from the State's perspective, than the State gets from Medicaid; is that also true?

Mr. SESSIONS. I believe so.

Mr. BAUCUS. It is true.

Mr. SESSIONS. I know the distinguished committee chairman probably knows that pretty well.

Mr. BAUCUS. It is true it is about 30 percent. Is it also true that different States have different costs of living?

Mr. SESSIONS. That is correct.

Mr. BAUCUS. And so some States—

Mr. SESSIONS. Although as the days and years go by, less and less perhaps.

Mr. BAUCUS. Different States have different costs of living. Some are more expensive to live in than other States.

Although the Senator is correct that States have set their eligibility rates at 300 percent of poverty, that actually, at that point, States no longer receive the Children's Health Insurance Program match rate, which is 30 percent higher on average than they receive in Medicaid. They can go to 300 percent or above 300 percent, but if they do—if they do—isn't it also true they get a much lower match rate than they receive today; that is, at the CHIP rate rather than the Medicaid rate?

Mr. SESSIONS. My understanding is the Senator is correct; that is, at least in Medicaid those rates, as you cover certain extras, you get a lower percentage rate. I am unsure of the exact details about how that is applied in SCHIP, but I understand there is a differential.

I would suggest to my colleague, though, that what we have done is created a system that incentivizes States to spend because they are getting a very substantial—65 to over 80 percent—match to cover things they wouldn't otherwise cover because it is money given gratis from the Federal Government; is that not correct?

Mr. BAUCUS. Well, if the Senator is asking me the question, that is true, as in the case of Medicaid but reminding us that we are talking about very low-income kids here.

Mr. SESSIONS. Well, reclaiming the floor, the GAO did a study that criticized this aspect of Medicaid some time ago, and it made some news; that the net effect of all this is that, on a percapita basis, people in higher income States are getting more out of Medicaid than they are in poorer States, on a fairly substantial basis. They have criticized that policy. Some of those same policies based on that unprincipled approach to health care are at work in this bill.

Again, the Federal Government would pick up a substantial percentage of what New York may get if they go to 400 percent. But 350 and 300 percent is, I think, a bit much anyway. For example, about 70,000 upper-middle-class-income families who pay the alternative minimum tax would also qualify for SCHIP under this bill. The program, I think, as a matter of policy, encourages irresponsible spending.

Think about this: States who use up all their allotment, many of which obviously are those giving out their richest benefits, profit from States such as Alabama, who are very careful with their spending and stay within their allotments. In years past, if Alabama didn't use all the allotment given to them—and they have to match a portion of it to get that money—that money was redistributed to States who spent more. This is, I think, unfair and not good, sound policy. It has encouraged States to overspend while punishing States who have been conscientious about controlling spending.

Of the States which exceeded their allotment and that have asked for bailouts, adults accounted for 55 percent of those States' enrollees, according to the Government Accountability Office. Those States that have exceeded their allotment, that have reached back into the pool and have gotten more money, the GAO has found that about 55 percent of what they pay out goes to adults. Not to children—adults. This bill does not stop that in an effective way. It had an opportunity to, and it did not.

Of the 18 States projected to have shortfalls for 2007, 7 have SCHIP eligibility that is above 200 percent of the poverty level. So the 18 States who were projecting they were going to spend above their eligible amount, they are the ones that have the highest eligibility rate. Four of those States—Maryland, Massachusetts, Missouri, and New Jersey—are at or above 300 percent of the poverty level, so you are talking about subsidizing health care for a family of four earning $60,000 per year.

In addition to taking leftover money from fiscally responsible States such as Alabama, some States that have expanded their programs beyond the scope of the original program have asked the Government to bail them out with new money. In other words, there is not enough leftover money. Not enough leftover money now that they can scoop up from frugal States such as Alabama to take care of their spending, so now they are asking and demanding more money from the Federal Government to match whatever they want to do.

It is a classic example of an out-of-control Federal program running amok. I have to tell you that is not good policy.

Five States have taken 83 percent of Government bailout funding for 2006 and 2007, and 14 States received part of this funding. This is the extra money Congress has appropriated to fill their deficits. Only 5 States have gobbled up 83 percent of these funds, with 14 States receiving part of this funding. But out of $720 million, Illinois received $237 million, New Jersey $164, Rhode Island—small Rhode Island—$84 million—high-income State, that is—Maryland $31 million, and Massachusetts $77 million.

So it is the high-benefit, high-tax States that are sucking up money out of the fund, and they want more and more. This bill does not deal with that.

The bill only worsens the problem of States who are overspending as it creates a contingency fund. Now, the contingency fund is specifically designed to provide this additional funding to States that run out of money because they have covered too much and there is not enough Federal matching money for them. I think we better name this contingency fund the ''Federal Fund to Encourage SCHIP Overspending.'' Maybe that would be the right title for it.

As Secretary Leavitt has said, this section indicates that either the allocation formulas that determine how much money States get are wildly inaccurate or we do want States to overspend. It seems like that is our goal. That is why people are suggesting this is a subtle way to have the Federal Government take over a larger and larger portion of health care in America.

A further example of bad SCHIP policy is federally subsidizing infrastructure for States to develop government-sponsored universal health care. Many States, such as Pennsylvania and Vermont, have already begun the process of instituting a universal health care program. I think it is unfair to tax people in the frugal States to pay for rich health care plans for the wealthy in other States. That is not a good policy.

About 45 percent of American children are currently enrolled in Medicaid or SCHIP, though only 37 percent are in families earning less than 200 percent of the Federal poverty level.

This is the third question I would ask. CBO estimates that about half of new SCHIP enrollees from this legislation now have private insurance. So my question is: Why would we spend taxpayers' money to insure people who are already insured? This bill would decrease private health insurance coverage. It would encourage people to leave their plans. It seeks to take kids away from private coverage and move them to government-run health care. Parents would be financially motivated to take their children off private, usually employer-sponsored plans, and put them on a taxpayer-supported plan. Those children would then have to be supported by the taxpayers; whereas, before they were covered by their own private insurance plan.

A recent report by CBO estimates that SCHIP has reduced the uninsured in the target population—those we wanted to reach who are uninsured, low-income children—by only 25 percent. That is the CBO saying that. The target group that was uninsured—low-

income children—we have reduced those uninsured by only 25 percent. I think this is because a lot of children now in SCHIP, and in many States adults, are people who used to be on private health plans. Between 50 percent and 75 percent of Medicaid expansion funds in the 1990s were spent on people who would have been privately insured, according to the economist Jonathan Gruber. That is a big number. I don't know if it is accurate, but that is what he concluded—between 50 percent and 75 percent of Medicaid expansion funds—were spent on people who would have been privately insured.

One study found that 60 percent of the children who became eligible for SCHIP had private coverage in the year before the SCHIP plan began. That is a stunning number; 60 percent of the children who became eligible for SCHIP had private insurance the year before. CBO found that among newly eligible populations—the higher income families who would be covered by this bill—one child will drop private coverage for every new uninsured child who is enrolled in the public program. That is a stunning number.

Overall, for every 100 children whom this bill would enroll in SCHIP, 50 of those children would come from private insurers. So half of the children we are going to be covering would be coming from private insurance plans. I don't think that is good policy, unless it is your goal to diminish private insurance and further take over the private sector with Federal plans.

These are conservative estimates, since the studies failed to calculate the crowd-out effect for adults who switched to Government plans. A recent study——

Mr. BAUCUS. Will the Senator yield on that point for a question?

Mr. SESSIONS. I will be pleased.

Mr. BAUCUS. A question designed for Senators to have more information about the basic point the Senator was talking about, crowd-outs, which the Senator understands is people on private insurance leaving private health insurance to go to the program that Congress may have enacted.

Does the Senator have any idea—I found this very interesting—when Congress passed the Medicare Modernization Act, which included Part D drug benefits—I don't know whether the Senator voted for that bill. I assume the Senator voted for that.

Mr. SESSIONS. I did vote for that.

Mr. BAUCUS. Does the Senator know at that time what the so-called crowd-out was? In fact, put it this way: Does the Senator know what percent of people who at that time were on private health insurance who might then have gone to a program the Government offered? Does the Senator have any idea—I am not saying the Senator should know. Does the Senator have any idea what was estimated at that time when we passed that bill what the crowd-out would be?

Mr. SESSIONS. Responding to the question of the Senator, I do know that you, as one of the authors of that bill which I did support, did create provisions to minimize that and deliberately took steps to reduce the amount of crowd-out that would occur.

Mr. BAUCUS. The Senator is correct.

Mr. SESSIONS. I am sure some would occur. Of course there was a feeling and observation on that from the beginning that this was a trend in the country.

Mr. BAUCUS. Correct. There is no real official conclusion of what the actual crowd-out has been. But does the Senator know the basic unofficial statistic is about 66 percent; there was about a 66-percent crowd-out under the Medicare Modernization Act?

Mr. SESSIONS. I am not aware of that. I know my mother didn't have any coverage. She was glad to get the prescription drug benefits.

Mr. BAUCUS. I want to ask another question. Does the Senator know what the anticipated crowd-out was when this Children's Health Insurance Program was originally enacted in 1997? What was the estimated crowd-out then, when we passed this bill in 1997?

Mr. SESSIONS. I am curious. I don't know.

Mr. BAUCUS. It is about 40 percent. And does the Senator know what the actual experience has been? About between 25 and 50 percent are the best numbers we can get.

Mr. SESSIONS. That is not so much—

Mr. BAUCUS. Between 25 and 50.

Mr. SESSIONS. I am pretty close to the estimate.

Mr. BAUCUS. You are close. Does the Senator know that when we wrote this bill we asked the CBO Director, Peter Orszag, to tell us in the Finance Committee what we have to do to minimize the phenomenon of crowding out? Of course the Senator doesn't know we asked him, but does the Senator know when we asked Peter Orszag during the markup—it is on the public record—were we extremely efficient and minimized the crowd-out as much as we possibly could, does the Senator know Mr. Orszag said, Yes, we were extremely efficient and minimized crowd-out as much as we possibly could?

Mr. SESSIONS. I didn't. But I will respond by asking this question: If we have crowded out prescription drug coverage for seniors, if we crowd out private insurance in Medicaid for low-income people, if we crowd out regardless of income concerns in general Medicare, and if we now crowd out more children and even adults under a children's plan, who is going to be left in private coverage?

Mr. BAUCUS. Let me answer that question by asking this question in return: Would the Senator want even more crowd-outs under a different approach? All experts say if we try to address more coverage for low-income kids through private coverage that the crowd-out would be even greater. Would the Senator want that greater crowd-out to occur, compared with the Children's Health Insurance Program?

Mr. SESSIONS. I would respond with this question: Isn't it true, if you are setting eligibility at 400 percent of poverty, or 350 percent, or 300 percent of poverty, you are going to crowd out more people with insurance than if you are actually taking care of poor people who are less likely to have insurance?

Mr. BAUCUS. I respond to the Senator, I have forgotten the exact statistic, but intuitively the answer is the one the Senator is suggesting, but actually the fact is, as we established earlier, no State has 400 percent of poverty. No State does. No State does. But for those States above 300 percent, the kids who are actually covered, the greatest preponderance of kids covered is still low-income kids. I say of all the beneficiaries to date under the Children's Health Insurance Program today, 91 percent are children at or below 200 percent of poverty.

This program is for kids. I know all this concern about adults and I share the Senator's concern about adults. I share it very strongly. We worked very hard on this bill to cut down adults, as the Senator knows. Childless adults are phased out after 2 years and parents are much lower—get a poorer rate. The third category of adults, pregnant women, there is a State option.

But the biggest concern, I am sure, of the Senator from Alabama is childless adults. This is supposed to be a kid's program, not an adult's program. We say, OK, after 2 years you are off. As the Senator also knows, back in the Deficit Reduction Act, when that was passed, we prevented HHS from granting any waivers for childless adults in the future.

Mr. SESSIONS. I thank the distinguished chairman for his insights. It has been a good dialog. I would go back, fundamentally, to the remarks I made at the beginning. Our present health care system is not working well. I believe a simpler system, if taken as part of the idea of equalizing tax deductions and tax credits for all Americans—and it would require spending from the Government to do that—if we did that in an effective way, every person could then choose their own insurance policy covering themselves as they wish. I think it would be a far more preferable way than taking a children's program and expanding it in a significant way.

There is no doubt. CBO has scored that for every child who is in this bill who would be enrolled in SCHIP, 50 percent of those children would come from private insurance coverage. That is a conservative estimate. It is a big deal. Fifty percent of the people who would be picked up under this plan would come from families where they are already covered.

The National Bureau of Economic Research, an independent group, estimates the crowd-out rate for SCHIP to be as high as 60 percent. Of 10 million children, about 50 percent of the children in families with incomes below 200 percent of the poverty line have insurance. This is the number for the lowest

income group. We would normally expect and do expect that higher income levels would have higher crowd-out effects. In fact, CBO—our own Congressional Budget Office—the one we have to rely on for information, estimates that 77 percent of the children in families at 200 percent to 300 percent of the poverty level already have private coverage. How about that? And 89 percent of children in families with incomes between 300 percent and 400 percent of poverty have private coverage, as do 95 percent of children in families above 400 percent of the Federal poverty level, according to our own Congressional Budget Office, which I assume our distinguished chairman does not disagree with. I mean he doesn't dispute those numbers.

Our goal should not be to take insurance away.

I will conclude. I know others are here prepared to speak. I have enjoyed the dialog.

I am not comfortable with the some of the ways we are proposing to take care of children and the way we are taking care of adults in a children's program and the way we are dealing with a broken Federal tax policy with regard to the uninsured. I was on a task force appointed by former majority leader Bill Frist, Dr. Bill Frist, to deal with the uninsured. We wrestled with it a number of ways. One of the ways we could have gotten a million people covered was through the association health plans, the small business health plans that my colleagues on the other side of the aisle managed to block.

Now we are moving more money, more, I guess, new wine in old wine bottles here. I think we need to break out of this mentality and create a system where you own your health insurance policy and you take it with you if you change jobs. I would note that the average American worker has had nine jobs by the time he or she is 35. Likewise, we ought to have savings accounts that people can take with them whenever they move from job to job and provide as much security and stability and assurance as we can possibly provide the working American families today.

Middle-class families are getting hit at both ends here. They are required to pay more taxes. They are not getting the benefits. They are working hard. If they are not working for a big company or the Government, they are paying a very high price for their health insurance.

We ought to work on these things, and if we did so, we might be surprised how many people might come on the insured rolls.

I yield the floor.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Montana.

Mr. BAUCUS. I am not going to belabor this crowd-out issue. A lot of people watching are probably asking what in the world is crowd-out. For those wondering what in the world crowd-out is that we are talking about here, basically it is how many people of those this legislation covers—how many people would be crowded out of private health care insurance. That is, if they are on private health care insurance today, how many would leave private health insurance to go to the Government program.

A couple of points here. No. 1, those who might be inclined to vote for the McConnell substitute know this, but actually the so-called crowd-out is greater in the McConnell-Lott proposal than it is on a percentage basis under my bill. On a percentage basis, under the McConnell-Lott bill, more people would be leaving private health insurance to go to the Children's Health Insurance Program.

Second, the figure we hear is 1 to 1. That is not accurate. That is selective use of the tables. If you look at the real facts, at the bottom line under CBO's estimates, they actually say it is more in the neighborhood of—it is not 50 percent that is represented here, but actually it is about 30 percent.

It also has been represented here that maybe under tax credits, which is a better way to go to cover health insurance, the implication is there will be less crowd-outs. Well, let me just point out that there is a fellow named John Gruber, and he is an MIT professor, a health economist. He is often quoted by the President. Professor Gruber is often quoted by President Bush in this general area. What does Professor Gruber say? He says that the tax credit crowd-out is, in his estimate, 77 percent. Much higher.

So for those concerned about the so-called crowd-out, I would think they would like the underlying bill because of all of the approaches we have discussed here, there is less crowd-out in the underlying bill than in the substitute or under the Kyl-Lott amendment and much less than would be the case under a tax credit approach to help low-income kids. I think the record should show that so Senators have full information and those watching this debate, wherever they may be, also have the facts before them.

Madam President, I suggest that the Chair recognize Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, all children should be able to see a doctor when they are sick, and all children should be able to get the medicine they need to make them better. When a kid gets a cut or requires stitches or comes down with a fever or an earache or with any imaginable problem, they should be able to get help, period. Unfortunately, today in America, the richest and most successful country ever, that is not the case. In fact, millions of American children do not have health insurance today, which means millions of American children cannot see a doctor when they are sick and millions of American children do not get the medicine they need to get better. As wages remain stagnant, as the cost of living—heat, food, clothing, college tuition, doctor's visits—increases, more and more parents today are unable to afford health care, and the ranks of uninsured children are growing.

This tragedy can only be described as a shame. It is unquestionably our moral obligation as Americans to correct it. It does not matter if you are Republican or Democrat, progressive or conservative—making sure our children get health care is the moral thing to do. Now, most of us in the Senate know this, and we are working now to do the moral thing—support reauthorizing and improving the Children's Health Insurance Program, or CHIP, which takes massive steps forward to giving our kids better health insurance in this country.

This bill will ensure that the 6.6 million children who are enrolled in CHIP continue receiving care, and it provides 3.2 million uninsured children with coverage. As a result, over the next 5 years, the number of uninsured children in America will drop by more than a third. It also strengthens the program by increasing funding for States that need the most help. You know, in recent years under President Bush's watch, many of our States have faced funding shortfalls, jeopardizing the coverage of countless children.

This bill also provides an emergency fund to cover unexpected shortfalls arising from economic downturns or emergencies. In fact, the Congressional Budget Office, which is a nonpartisan group of experts, predicts that 800,000 children now covered by CHIP or children's health insurance will lose coverage over the next 5 years unless there is an increase in funding above the base amount required.

This legislation which is before the Senate today provides $100 million as well for outreach and enrollment efforts that increase the participation of children in the Children's Health Insurance Program. It includes a national campaign to help raise awareness of the Children's Health Insurance Program and the targeting of our children in rural areas with high populations of eligible but unenrolled children today. Another outreach effort will provide funds for translation and interpretation service for CHIP, so minority children, especially Native Americans and Hispanics, will become more aware of this program.

Finally, this authorization plan provides my home State of Washington with the funding and flexibility we need to provide more children with quality health care.

This bill is a big win-win for Washington State and the many families who struggle to provide care for their children today. One of the smartest parts of this plan is that the money for these initiatives—$35 billion over 5 years—comes solely from a 61-cent excise tax increase on cigarettes and

other tobacco products. No other programs are cut; Social Security is not raided; the deficit will not be increased.

Not only will this bill provide millions of American children with health care, but it is estimated that it will lead 1.7 million adult smokers to quit smoking, and that will cause a 9.2-percent decline in youth smoking and will prevent over 1.8 million kids from becoming smokers. So when you provide health care to millions of children and lead millions of young people to stop smoking or to never pick up a cigarette, this bill is a win-win for our country and for our children.

I think it is very important that I thank my colleague, Senator Max Baucus, for his tireless work on this issue and for all of America's children. Without his determination, we would not be so close to providing more of our kids with health care.

It is also important to note that this bill is bipartisan. Senator GRASSLEY has worked very hard, along with Senator BAUCUS, in creating this legislation. It was passed out of committee on a commendable bipartisan basis.

Another big supporter of this bill on the floor has been Senator HATCH, who was a cosponsor, actually, of the original 1997 bill.

I listened to him as he recently said:

> We are trying to do what is right by our children who are currently not being helped by our health care system. If we cover children properly, we will save billions of dollars in the long run. Even if we did not, we should still take care of those children.

Senators GRASSLEY and HATCH are not alone on their side of the aisle. Many of our colleagues realize that supporting this legislation is the moral thing to do. Unfortunately, however, President Bush does not agree, and he has, amazingly, threatened to veto this bill. Now, he is going to be out there giving his reasons for the veto. He is going to make complicated arguments and throw some numbers around. But the bottom line is, the moral line is that vetoing this bill will endanger coverage for millions of children who are currently enrolled in our Children's Health Insurance Program, and a veto will deny millions of kids who would become covered under the bill a chance to see a doctor when they are sick. It seems, sadly, the moral light President Bush says guides his decisions has dimmed.

I wish to share the following story with President Bush and with any Senators who might be thinking about voting against this bill.

This is Sydney. Sydney and her mom Sandi DeBord live in Yakima, WA. Sydney has cystic fibrosis. Sydney's mom recently wrote to me. She talked about her daughter and the importance of the Children's Health Insurance Program, which allowed Sydney to get the care she needed, which extended her life and allowed her to live her short life to the fullest.

Mrs. DeBord wrote to me, and I want to read to you what she said. These are her words:

> My daughter has a life-shortening genetic condition called Cystic Fibrosis. With quality health care I believe her life has been extended and she has been able to enjoy 9 years of quality life.
>
> Of course, she spent many weeks in the hospital on life-saving IV antibiotics during those 9 years, and not a day goes by that she does not have to endure taking a bucket full of medicine. But despite the obstacle in her way, she is a happy child living life to the fullest.
>
> She is active, she does well in school, has many friends, and loves to sing and dance. However, none of that would be possible if it was not for the quality health care she receives as part of the CHIP health care. I know for a fact that without this bit of assistance, her life would end much sooner due to the inability to afford quality health care for her.
>
> As her parent, it frightens me to even think some day she may be without health care coverage if programs like CHIP are no longer available.

She said:

> I write to ask you to reauthorize the State Children's Health Insurance Program and ensure the program is adequately funded to provide high quality health care for children with Cystic Fibrosis.

I hope President Bush and opponents of this bill will listen to this story. I hope they take a chance to look at Sydney and the life in her eyes and the life she has been able to live. I know Mrs. DeBord hopes they are listening as well.

It is our moral duty as Americans to ensure our kids can see a doctor when they are sick. The bill in front of us today fulfills that duty. It ensures that children covered by CHIP remain covered, and it ensures that millions without insurance today are going to get it.

I strongly urge my colleagues to do the moral thing and support the reauthorization of this Children's Health Insurance Program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, as everybody knows, I have been in the CHIP battle since the beginning. I just want to pay a great deal of tribute to the distinguished chairman of the committee, Senator BAUCUS; the distinguished ranking member, Senator GRASSLEY; and, of course, Senator ROCKEFELLER.

In the beginning instance of CHIP, my good friend, Senator KENNEDY, and also Senator SNOWE, my dear friend—all of these people had a lot to do with the CHIP bill from the beginning. And I have to say that the original Hatch-Kennedy bill became the CHIP bill back in 1997, and, of course, it has come all of this way to today where we are looking for renewal.

There are some facts that really ought to be put into the equation here today, and I thought I would just spend a few minutes on some of the facts regarding CHIP.

No. 1: The Children's Health Insurance Program reauthorization is not full of budget gimmicks. The Senate Budget Committee has certified that this legislation complies with pay-go rules of both the 6- and 11-year base under the pay-go rule. The Congressional Budget Office has reviewed its 5-year and 10-year expenditures and revenue raisers and believes they are balanced on an on-budget basis. This bill is a 5-year authorization and is fully paid for with offsets. This bill is not a 10-year reauthorization, and that is an important point to remember. The CHIP program must be reauthorized in 5 years.

Fact two: Some have indicated that the Children's Health Insurance Program reauthorization imposes up to a $10 tax on a cigar. Well, the tobacco tax included in our bill prorates tobacco rates or taxes on cigars. The tax imposed on cigars is based on the price of a cigar. In very few instances will an individual cigar be taxed at $10.

Another fact: The Children's Health Insurance Reauthorization Act does not increase the crowd-out rate. There is crowd-out because there is always going to be crowd-out when you try to solve some of these very serious problems. Although, because we are covering more children, some have concern that the crowd-out rate will increase, according to CBO, the fact is that the crowd-out rates will not increase.

Another fact: The Children's Health Insurance Reauthorization Act prohibits the Federal Government from granting future State waivers to cover nonpregnant adults through CHIP. Our bill puts the emphasis back on low-income, uninsured children. Simply put, our bill puts an immediate stop to States being granted future waivers to cover nonpregnant adults.

Let me give you another fact: The Children's Health Insurance Program Reauthorization Act eliminates enhanced Federal matching rates for nonpregnant adults. At the beginning of fiscal year 2009, States will receive lower Federal matching rates for childless adults, and in fiscal year 2010, childless adults will not be covered under CHIP. At the beginning of fiscal year 2010, only States with significant outreach efforts for low-income uninsured children will receive enhanced match rates for parents; others will receive the lower Medicaid match rate, or FMAP, for adults.

Starting in fiscal year 2011, all States will receive a lower Federal match rate for parents. Those States covering more lower income kids will receive REMAP—that is the mid-point between the CHIP matching rate and the lower Medicaid matching rate. Other States will receive FMAP for CHIP parents.

Another fact: The Children's Health Insurance Program Reauthorization Act provides lower matching rates to States for those individuals 300 percent of the Federal poverty level and above who are covered under CHIP, thus penalizing States that want to cover higher income children.

Under the current CHIP bill, States receive an enhanced Federal matching rate for all income levels. Our bill discourages States from covering higher income individuals in the CHIP program. After enactment of our bill, States that have new waivers approved to cover 300 percent of the Federal poverty level and above would only receive a lower FMAP payment for higher income individuals.

Let me give one more fact, and then I will make some other points. The Children's Health Insurance Program Reauthorization Act is an effective children's health program and a small part of the overall cost of health. CHIP is not an entitlement program. That is something a lot of people don't understand. We drafted it that way because I didn't want it to be an entitlement program. Now some say we will never be able to stop it. That may be because it works. It has saved literally millions of children. It is a capped block grant program, where States are given flexibility to cover their low-income uninsured children.

According to CMS, the agency that has a lot to do with health care, in 2005, we spent a total of $1.98 trillion on our Nation's health care system. Private expenditures were $1.08 trillion. The Federal Government's expenditures were $900 billion. Total Medicare spending was $342 billion in 2005, according to CMS, and Medicaid was $177 billion in Federal dollars. Our bill today funds CHIP at $60 billion over 5 years. That is the $25 billion base figure and an additional $35 billion to cover more children. This is a fraction of the total cost of health care in our country to provide care for low-income, uninsured children. Covering these children is worth every cent. We spend almost $2 trillion on health care, and the equivalent of $12 billion a year is what this program will cost, out of $2 trillion in health care, $900 billion of which happens to be Federal dollars. Only $12 billion goes to these kids, mainly children of the working poor who earn enough that they don't qualify for Medicaid but don't have enough money to buy private health insurance.

That is what a lot of people don't seem to understand. The CHIP bill, up to now, has worked quite well in spite of the waivers, which I believe should not have been granted in many respects by the last two Administrations. But I have to say this program has worked very well.

I also wish to let everybody know that I support S. 1893, the Children's Health Insurance Program Reauthorization Act. Over the past few days, I have been listening to the floor debate on the bill being considered on the Senate floor this week. I have to admit, at some points during the debate, the descriptions I am hearing don't even sound like the bill I introduced with Senators BAUCUS, GRASSLEY, and ROCKEFELLER. Indeed, I believe there have been many allegations by opponents of S. 1893 that are not accurate. Therefore, I would like to take a few minutes to correct the record so my Senate colleagues hear from both sides before making a final decision on how to vote on this bill later this week.

First, I take issue with the point that our legislation is full of budget gimmicks. I made that point before, but I will remake some of these points. The Senate Budget Committee has certified this legislation does comply with pay-go rules on both the 6-year and 11-year bases under the pay-go rule. In addition, the Congressional Budget Office Director, Dr. Peter Orszag, told us in last week's Finance Committee markup that CBO reviewed the bill's 5-year and 10-year expenditures and revenue raisers, and CBO believes they are balanced on an onbudget basis. In addition, this bill is a 5-year authorization that is fully paid with offsets. This is how our rules operate. Those who talk about its 10-year impact fail to note this bill is not a 10-year reauthorization. That is an important point to remember. They argue that it will be very expensive in 10 years. Who knows? I can't tell you what it is going to cost in the remaining 6, 7, 8, 9, 10 years not covered by this bill, but we should all be working to try and keep costs down. We have to look at the CHIP program again in 5 years and reauthorize it.

I assure my colleagues that when writing this bill, we did everything possible to comply with the budget rules, and any assertion to the contrary is plain false. Further, I wish to remind my colleagues that when CHIP was established in 1997, we had a set amount of money and, as a result, the budget baseline did not assume any rate of growth for the CHIP program. Additionally, the budget rules did not consider the fact that health care costs are rising by 9 percent each year. That is not CHIP's fault. In many respects, that is our fault in the Congress due the way we run things around here.

Some would say that is why we shouldn't have CHIP. I guess that is why we shouldn't have any Federal programs, if that is the argument. The fact is, CHIP has worked abundantly well to help the most vulnerable people in our society, our children. I want to see that continue.

The budget rules also did not consider the increasing number of children enrolling in the CHIP program. Therefore, there is only $5 billion per year for the CHIP program in the budget baseline. To me, this number is unrealistic, and I think anybody who looks at it would agree. It creates a situation which is extremely frustrating because health care costs continue to increase in the CHIP program just like every other health care program is going up 9 percent a year. That is somewhat of a victory because it used to go up 13 percent a year. As a result, we had to come up with the money to keep the current program functioning, not to mention additional sums for providing coverage to uninsured, low-income children without health care. There are many incidents of young children who don't have health care beyond the CHIP program or that haven't been covered by the CHIP program.

To keep the program running as it currently exists, it will cost the Federal Government $14 billion. We fixed the problem by addressing the shortfall. Simply put, we had to comply with the budget rules in this bill, and we did. So in 5 years, the Congress will have to come up with money to keep the program operating, similar to the challenge we are facing with our $14 billion deficit right now.

We need to be realistic. Since CHIP is not a permanent program and not an entitlement program, we in Congress have an even bigger job to keep the program running efficiently in the next 5 years. The current budget rules do not include a realistic rate of growth after the program expires. I can only conclude, then, with this bill, we are doing the best we can under very difficult circumstances for some of the most vulnerable people in our society, our children, the ones left out of the Medicaid process and whose parents don't earn enough money to buy insurance.

Another issue I have heard being raised is that our legislation will raise tobacco taxes on cigars to $10 a cigar. Let me make one thing perfectly clear. The Children's Health Insurance Program Reauthorization Act does not impose a $10 tax on each cigar. In fact, the tobacco tax included in our bill prorates tobacco taxes on cigars. The tax imposed on cigars is based on the price of the cigar. In very few instances will an individual cigar be taxed at $10, and those who can afford that kind of cigar can afford the taxes.

I know Senators are concerned about what some term ''crowd-out.'' Crowd-out is having individuals who are currently covered by private health insurance drop their private health insurance to be covered by a government program.

This was my concern, as it was for Senator KENNEDY, when we enacted CHIP originally. It is a valid concern today as well. But allegations that this bill increases the crowd-out rate are untrue. According to CBO, the fact is, the crowd-out rate will not increase for the basic CHIP program. While crowd-out does remain a serious problem, the crowd-out rate is not worsened by our bill. People will turn to whatever is better for them. If the CHIP bill is better for these kids, they are going to turn to it. I don't think we can blame them for that. Of course, the argument is that this is the camel's nose under the tent for one-size-fits-all socialized medicine. No, it isn't. But some want to make it that type of a program. I believe the House may be well on its way to trying to make it that, but we don't in this bill.

In fact, during the Senate Finance Committee markup last week, CBO Director Peter Orszag told us the crowd-out rate for this bill is the same as the

crowd-out rate for the original CHIP program. In addition, the CBO Director told us that in the absence of a mandate, this approach is as efficient as you can possibly get per dollars spent to get a reduction in the number of uninsured children, the goal of the CHIP program. This is because the incentive fund which was created in this bill to reward States for lowering the number of uninsured, low-income kids is designed so it provides a payment per child only for new Medicaid children as opposed to new CHIP children. This is helpful with crowd-out, first, because Medicaid is for lower income kids who are less likely to have the option of private coverage, so tilting toward Medicaid is beneficial. Second, the payments for the incentive fund payments are graduated. In other words, they are not based on random noise. The combination of these two is an efficient outcome.

According to CBO, the approach we take in our bill is probably the most efficient way to have new dollars spent to reduce the number of uninsured children.

Another issue that continues to be raised is adult coverage under CHIP. Unfortunately, the opponents of the bill have not been very clear about how adults are treated under this legislation. If I were the only one drafting the bill, which obviously I am not, I would like to see all adults removed from the CHIP program today, or tomorrow, to be a little more precise. I don't think they have any business receiving health care through a program created for low-income, uninsured children. In fact, I am very disappointed with our administration for continuing to grant Federal waivers to States to cover adults through CHIP. This has been extremely frustrating to me. Of course, our original language allowed them to do it, but we never dreamed for a minute they would allow some States to have more adults on this program than children. Not only is that ridiculous, that was never contemplated. But that is what has happened.

This legislation addresses this matter by phasing childless adults off the CHIP program and lowering the Federal matching rate for parents and States who currently are covered under the CHIP program. Recently, Senators GRASSLEY, ROBERTS, and I wrote both the President and my good friend, Health and Human Services Secretary Mike Leavitt, urging the administration to stop granting States any new adult waivers. I was pleased to hear back from Secretary Leavitt regarding adult waivers. I truly believe the letter Senators GRASSLEY, ROBERTS, and I sent to the President and Secretary Leavitt, along with the CHIP reauthorization bill we drafted, made some impact with the administration. I am encouraged that the administration says it does not intend to approve any new adult waivers or renew any waivers for adults. I am also encouraged to see the administration is making progress toward removing adults from the CHIP program. However, these decisions should have been made a long time ago. I take issue with the point that our legislation will actually reverse the progress the administration is making with the States. I truly believe that one of the reasons the administration is finally moving forward on this is due to the pressures it has received from Congress to remove adults from the program. I look forward to working with the administration to make this a reality.

To be fair, most of these waivers were granted before Secretary Leavitt took over at that position. I don't want to particularly blame him, but some waivers have been approved afterwards as well. I think the same crowd down there has been doing it and, of course, Secretary Leavitt has been the one who some would blame, although I think unjustifiably.

The Children's Health Insurance Program Reauthorization Act prohibits the Federal Government from granting future State waivers to cover nonpregnant adults through CHIP once and for all. Simply put, our bill puts an immediate stop to States being granted future waivers to cover nonpregnant adults. Our bill puts the emphasis back on low-income, uninsured children. As one of the original authors of the CHIP program, I am here to tell Senators we did not create CHIP for adults. I wish we could do more for the working poor adults, but we do not have the money, and this program was not created for adults. We created CHIP for low-income uninsured children.

On a related matter, our legislation also eliminates enhanced Federal matching rates for adults, with the exception of pregnant women.

Today, under CHIP, States receive an enhanced Federal matching rate for those covered under CHIP. The Medicaid Federal medical assistance percentage, known as FMAP, ranges between 50 percent and 76 percent in fiscal year 2006; the CHIP FMAP ranges from 65 percent to 83.2 percent.

At the beginning of fiscal year 2009, States will receive lower Federal matching rates for childless adults, and in fiscal year 2010, childless adults will no longer be covered under CHIP. With regard to parents, at the beginning of fiscal year 2010, only States that have covered more low-income uninsured children or have undertaken significant outreach efforts for low-income uninsured children will receive enhanced match rates for parents; the others will receive the lower Medicaid match rate, or FMAP, for adults.

Starting in fiscal year 2011, all States will receive a lower Federal matching rate for parents. Those States covering more lower income kids or with significant outreach efforts will receive REMAP. That is the midpoint between the CHIP matching rate and the lower Medicaid matching rate. The other States will receive FMAP for CHIP parents.

Many have also raised concerns about the income eligibility level of those covered by CHIP.

The Children's Health Insurance Program Reauthorization Act provides lower matching rates to States for those individuals with incomes at 300 percent of the Federal poverty level and above who are covered under CHIP, thus penalizing States that want to cover higher income children.

I might add, the original bill had us at 200 percent of the Federal poverty level, and approximately 90 percent of the children covered by CHIP were 200 percent of the federal poverty rate and below.

Today, States receive an enhanced Federal matching rate for all income levels. Our bill discourages States from covering higher income individuals in the CHIP program. Once our bill is enacted, States that have new waivers approved to cover individuals 300 percent of the Federal poverty level and above would only receive the lower FMAP payment for these higher income individuals.

To me, this is dramatic improvement over current law which allows higher income individuals to receive the same Federal matching rate provided to States for covering low-income children through the CHIP program.

Finally, I emphasize that the CHIP program is an effective children's health program and a small part of overall health care costs. I make that point one more time. CHIP is not an entitlement program. It is a capped, block-granted program where the States are given flexibility and control, to cover their low-income uninsured children. It is totally voluntary on the part of a State to participate and offer CHIP program benefits to its residents.

According to CMS, in 2005 we spent a total of $1.98 trillion on our Nation's health care system. Private expenditures were $1.08 trillion, and $900 billion in Federal dollars. Total Medicare spending was $342 billion in 2005, and Medicaid was 177 billion in Federal dollars.

Our bill today funds CHIP—for 5 years—at $60 billion over the 5-year period. It is a fraction of the overall health care costs. If you want to divide it by 5, it is $12 billion a year out of a $2 trillion expenditure in this country for total health care, and out of a $900 billion Federal expenditure for health care. This $12 billion per year is a fraction of the cost, or should I say, this $60 billion over 5 years is a fraction of the cost to provide care for low-income uninsured children.

Now, I think it is pathetic for people to argue that this is running out of control when we are trying to cover kids who have not been covered, as well as those who have—when it costs, like I say, $12 billion a year out of $900 billion spent by the Federal Government. I wish we had a better system in the sense that the private sector could take care of everybody. I think part of

our problem is we have too much Federal Government involvement. But the fact is, for the CHIP program to be reauthorized, it is a very minuscule amount of money compared to the $900 billion, every year, the Federal Government pays for health care coverage.

Covering these children is worth every cent. If we do not take care of these children, these low-income uninsured children, these kids are going to have serious health care problems in the future, and it is going to cost the federal government a lot more than what reauthorizing the CHIP program is going to cost us. We have to look forward to the future and do everything in our power to help these children.

It is my hope that I have cleared up some of the misconceptions that my colleagues may have regarding the bill the Senate is considering this week.

Mr. President, I will yield the floor. I apologize that I have taken so long, but I wanted to clear up some of these misconceptions about the CHIP bill that have been stated on the floor by some of my colleagues. I know they are very sincere, and I know they want to be fiscally responsible. But to argue that $12 billion a year or $60 billion over 5 years is too much money to pay for our children—when we are spending $2 trillion on health care—I think that makes our point, the distinguished Senator from Montana and I have been trying to make, even more resilient and effective.

The PRESIDING OFFICER (Mr. OBAMA). The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I thank Senator HATCH. He has been very hardworking and dedicated to the goal of trying to find a balanced, bipartisan solution to help expand the Children's Health Insurance Program. I compliment him very deeply for all of his terrific work.

Mr. HATCH. I thank my colleague.

Mr. BAUCUS. He has just gone above and beyond. Senators and the people from the State of Utah, I think, should know that. He has done a super job.

I know a number of Senators have been seeking to speak, and I want to protect them. So I ask unanimous consent that the following Senators be recognized in the following order: first, Senator NELSON of Florida, then Senator THUNE of South Dakota, and then Senator LAUTENBERG of New Jersey.

Mr. KERRY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I will not object. I would just like to ask if I might be recognized first to simply make a unanimous consent request on a modification and send it to the desk. I will not speak.

The PRESIDING OFFICER. Are there any objections?

Without objection, it is so ordered.

AMENDMENT NO. 2602, AS MODIFIED

Mr. KERRY. Mr. President, I ask unanimous consent that my amendment No. 2602 be modified, as sent to the desk, and that be the pending amendment.

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

The amendment, as modified, is as follows:

At the end, add the following:

TITLE IX—IMPROVED INCENTIVES TO ENROLL UNINSURED CHILDREN AND PROTECT EXISTING COVERAGE OPTIONS

SEC. 901. IMPROVEMENTS TO THE INCENTIVE BONUSES FOR STATES.

Paragraphs (2) and (3) of section 2104(j), as added by section 105(a), are amended to read as follows:

''(2) PAYMENTS TO STATES INCREASING ENROLLMENT.—

''(A) IN GENERAL.—Subject to paragraph (3)(D), with respect to each of fiscal years 2008 through 2012, the Secretary shall make payments to States from the Incentive Pool determined under subparagraph (B).

''(B) AMOUNT.—The amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

''(i) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees (as determined under paragraph (3)(A)(i)) under title XIX for the State and fiscal year multiplied by 6 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(ii) SECOND TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees (as determined under paragraph (3)(A)(ii)) under title XIX for the State and fiscal year multiplied by 35 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(iii) THIRD TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of third tier above baseline child enrollees (as determined under paragraph (3)(A)(iii)) under title XIX for the State and fiscal year multiplied by 90 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(3) DEFINITIONS AND RULES.—For purposes of this paragraph and paragraph (2):

''(A) TIERS ABOVE BASELINE.—

''(i) FIRST TIER ABOVE BASELINE CHILD ENROLLEES.—The number of first tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (C)) enrolled during the fiscal year under the State plan under title XIX; exceeds

''(II) the baseline number of enrollees described in clause (iv) for the State and fiscal year under title XIX, respectively;

but not to exceed 2 percent of the baseline number of enrollees described in subclause (II).

''(ii) SECOND TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (C)) enrolled during the fiscal year under title XIX, as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iv) for the State and fiscal year under title XIX, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i),

but not to exceed 7 percent of the baseline number of enrollees described in clause (i)(II), reduced by the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i).

''(iii) THIRD TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (C)) enrolled during the fiscal year under title XIX, as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iv) for the State and fiscal year under title XIX, as described in clause (i)(II), the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i), and the maximum number of second tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (ii).

''(iv) BASELINE NUMBER OF CHILD ENROLLEES.—The baseline number of child enrollees for a State under title XIX—

''(I) for fiscal year 2008 is equal to the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX, respectively, during fiscal year 2007 increased by the population growth for children in that State for the year ending on June 30, 2006 (as estimated by the Bureau of the Census) plus 1 percentage point; or

''(II) for a subsequent fiscal year is equal to the baseline number of child enrollees for the State for the previous fiscal year under this title or title XIX, respectively, increased by the population growth for children in that State for the year ending on June 30 before the beginning of the fiscal year (as estimated by the Bureau of the Census) plus 1 percentage point.

''(B) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—For purposes of subparagraph (A), the projected per capita State Medicaid expenditures for a State and fiscal year under title XIX is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State plan under such title, including under waivers but not including such children eligible for assistance by virtue of the receipt of benefits under title XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b)) for the fiscal year involved.

''(C) QUALIFYING CHILDREN DEFINED.—For purposes of this subsection, the term 'qualifying children' means, with respect to this title or title XIX, children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2007, for enrollment under this title or title XIX, respectively, taking into account criteria applied as of such date under this title or title XIX, respectively, pursuant to a waiver under section 1115.''.

SEC. 902. OPTIONAL COVERAGE OF OLDER CHILDREN UNDER MEDICAID AND CHIP.

(a) MEDICAID.—

(1) IN GENERAL.—Section 1902(l)(1)(D) (42 U.S.C. 1396a(l)(1)(D)) is amended by striking ''but have not attained 19 years of age'' and inserting ''but is under 19 years of age (or, at the option of a State, under such higher age, not to exceed 21 years of age, as the State may elect)''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(e)(3)(A) (42 U.S.C. 1396a(e)(3)(A)) is amended by striking ''18 years of age or younger'' and inserting ''under 19 years of age (or under such higher age as the State has elected under subsection (l)(1)(D))'' after ''18 years of age''.

(B) Section 1902(e)(12) (42 U.S.C. 1396a(e)(12)) is amended by inserting ''or such higher age as the State has elected under subsection (l)(1)(D)'' after ''19 years of age''.

(C) Section 1905(a) (42 U.S.C. 1396d(a)) is amended, in clause (i), by inserting ''or under such higher age as the State has elected under subsection (l)(1)(D)'' after ''as the State may choose''.

(D) Section 1920A(b)(1) (42 U.S.C. 1396r–1a(b)(1)) is amended by inserting ''or under such higher age as the State has elected under section 1902(l)(1)(D)'' after ''19 years of age''.

(E) Section 1928(h)(1) (42 U.S.C. 1396s(h)(1)) is amended by striking ''18 years of age or younger'' and inserting ''under 19 years of age or under such higher age as the State has elected under section 1902(l)(1)(D)''.

(F) Section 1932(a)(2)(A) (42 U.S.C. 1396u–2(a)(2)(A)) is amended by inserting ''(or under such higher age as the State has elected under section 1902(l)(1)(D))'' after ''19 years of age''.

(b) TITLE XXI.—Section 2110(c)(1) (42 U.S.C. 1397jj(c)(1)) is amended by inserting ''(or, at the option of the State, under such higher age as the State has elected under section 1902(l)(1)(D))''.

SEC. 903. MODERNIZING TRANSITIONAL MEDICAID.

(a) FOUR-YEAR EXTENSION.—

(1) IN GENERAL.—Sections 1902(e)(1)(B) and 1925(f) (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking ''September 30, 2003'' and inserting ''September 30, 2010''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2007.

(b) STATE OPTION OF INITIAL 12-MONTH ELIGIBILITY.—Section 1925 (42 U.S.C. 1396r–6) is amended—

(1) in subsection (a)(1), by inserting ''but subject to paragraph (5)'' after ''Notwithstanding any other provision of this title'';

(2) by adding at the end of subsection (a) the following:

''(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY PERIOD.—A State may elect to treat any reference in this subsection to a 6-month period (or 6 months) as a reference to a 12-month period (or 12 months). In the case of such an election, subsection (b) shall not apply.''; and

(3) in subsection (b)(1), by inserting ''but subject to subsection (a)(5)'' after ''Notwithstanding any other provision of this title''.

(c) REMOVAL OF REQUIREMENT FOR PREVIOUS RECEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) (42 U.S.C. 1396r–6(a)(1)), as amended by subsection (b)(1), is further amended—

(1) by inserting ''subparagraph (B) and'' before ''paragraph (5)'';

(2) by redesignating the matter after ''REQUIREMENT.—'' as a subparagraph (A) with the heading ''IN GENERAL.—'' and with the same indentation as subparagraph (B) (as added by paragraph (3)); and

(3) by adding at the end the following:

''(B) STATE OPTION TO WAIVE REQUIREMENT FOR 3 MONTHS BEFORE RECEIPT OF MEDICAL ASSISTANCE.—A State may, at its option, elect also to apply subparagraph (A) in the case of a family that was receiving such aid for fewer than three months or that had applied for and was eligible for such aid for fewer than 3 months during the 6 immediately preceding months described in such subparagraph.''.

(d) CMS REPORT ON ENROLLMENT AND PARTICIPATION RATES UNDER TMA.—Section 1925 (42 U.S.C. 1396r–6), as amended by this section, is further amended by adding at the end the following new subsection:

''(g) COLLECTION AND REPORTING OF PARTICIPATION INFORMATION.—

''(1) COLLECTION OF INFORMATION FROM STATES.—Each State shall collect and submit to the Secretary (and make publicly available), in a format specified by the Secretary, information on average monthly enrollment and average monthly participation rates for adults and children under this section and of the number and percentage of children who become ineligible for medical assistance under this section whose medical assistance is continued under another eligibility category or who are enrolled under the State's child health plan under title XXI. Such information shall be submitted at the same time and frequency in which other enrollment information under this title is submitted to the Secretary.

''(2) ANNUAL REPORTS TO CONGRESS.—Using the information submitted under paragraph (1), the Secretary shall submit to Congress annual reports concerning enrollment and participation rates described in such paragraph.''.

(e) EFFECTIVE DATE.—The amendments made by subsections (b) through (d) shall take effect on the date of the enactment of this Act.

SEC. 904. REPEAL OF TOP INCOME TAX RATE REDUCTION FOR TAXPAYERS WITH $1,000,000 OR MORE OF TAXABLE INCOME.

(a) IN GENERAL.—Section 1(i) of the Internal Revenue Code of 1986 (relating to rate reductions) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) EXCEPTION FOR TAXPAYERS WITH TAXABLE INCOME OF $1,000,000, OR MORE.—

''(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of taxable years beginning in a calender year after 2007, the last item in the fourth column of the table under paragraph (2) shall be applied by substituting '39.6%' for '35.0%' with respect to taxable income in excess of $1,000,000 (one-half of such amount in the case of taxpayers to whom subsection (d) applies).

''(B) INFLATION ADJUSTMENT.—In the case of the dollar amount under subparagraph (A), paragraph (1)(C) shall be applied by substituting '2008' for '2003' and '2007' for '2002'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

(c) APPLICATION OF EGTRRA SUNSET.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Mr. KERRY. I thank the Chair and thank my friend.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, first of all, before the Senator from Utah leaves the Chamber, I want to say that I listened to him, and I appreciate his leadership. This is one of the most important programs. It was created back in 1997, when the Senator from Utah took a leading role, along with the Senator from Montana. It is truly a bipartisan program, and it is one that has met with great success.

As it was created in 1997, this Senator happened to be the elected State treasurer and insurance commissioner of Florida, of which in that position I chaired the health insurance program for children that had been set up separate from this program. This program just all the more enabled us in Florida to add that many more children to receive health care, particularly health care at a time that is so important in their lives, when those little minds are beginning to learn and those little bodies are beginning to build.

So I just want the two Senators on the floor to know how much I appreciate it.

Since 1997, even as the percentage of uninsured adults has increased, the rate of low-income uninsured children has decreased by over a third. As a result, these insured children, in large part because of this program, have been afforded better access to primary and preventive care, better quality of care, improved health, and even improved school performance.

In our State, over 300,000 children received health insurance through Medicaid or CHIP last year, and those children were able to enjoy these benefits. But over 700,000 children in Florida remain uninsured. This legislation before us is the best opportunity to expand coverage to a significant portion of those 700,000 children in Florida and millions of low-income uninsured children throughout the country.

We have seen how successful this program can be, and we are aware of how many more children should be allowed to participate. So 10 years after the creation of the program, now we have the opportunity to pass this bipartisan bill that reauthorizes and further strengthens this very popular program.

This legislation is bipartisan. It is going to bring health care to millions of children. While many of us in this Chamber have supported an additional $50 billion for this program, I believe the $35 billion allocated in this legislation is a fair compromise. With that money, we can still accomplish an increase of more than 3 million children newly insured under the program.

I also support the inclusion of legal immigrant children and pregnant women in the program, and I was disappointed to see it was not included in this legislation. Under current law, legal immigrants who have been in this country for less than 5 years are not eligible to participate in Medicaid or CHIP, despite the fact they pay taxes to support those programs. As a result, the preventive effects of health insurance are not being realized for them. I am concerned, as so many of us are, that we are going to end up paying much more in the future for health problems that could have been treated

early on. I understand there will be an amendment that will be offered to include legal—legal—immigrants in this reauthorization, and I am going to support that amendment.

Now, another concern I have is a portion of the tobacco tax. It is not the tobacco tax. If you have to find a source of revenue, then this is the place to do it. But I want to emphasize the increase in the tobacco tax, as a whole, is quite appropriate as a funding mechanism for this legislation. It is going to have significant, positive impacts on health. It is going to save billions of dollars in health care costs, and it is going to reduce the prevalence of smoking among kids, whom this bill is designed to protect. But there is a portion that is not fair, and that is the tax that is applied with some inequity across product lines. Unbeknownst to most people, Florida is the largest cigar manufacturing State in the country and serves also as the main port of entry for premium handmade cigars into the United States. There are approximately 30 cigar manufacturers and importers based in Florida which employ 4,000 workers and thousands more in support industries. I hope some of these problems with the tax which cause many multiple thousands of a percentage increase in the tax on those cigars is going to be addressed in this bill, and what is not addressed in this bill can be addressed in conference.

Despite some concerns, this bipartisan legislation is a strong bill with much to its credit. It will institute a more streamlined funding process and it will provide for improved child health quality measures, and will give States such as ours important opportunities for expansion.

We have the opportunity to do something that is morally unassailable, and that is to expand access to health care to a significant number of low-income children. I believe this bipartisan legislation is the best way forward, and I look forward to casting my vote in favor.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

MODIFICATION TO AMENDMENT NO. 2593

Mr. THUNE. Mr. President, I ask unanimous consent that the Lott amendment be modified with the changes at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

MODIFICATION TO LOTT AMDT. NO. 2593

Strike TITLE III.

AMENDMENT NO. 2579 TO AMENDMENT NO. 2530

Mr. THUNE. Mr. President, I ask unanimous consent to call up amendment No. 2579.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for himself, Mr. LOTT, Mr. CORNYN, and Mr. DEMINT, proposes an amendment numbered 2579 to amendment No. 2530.

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

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

The amendment is as follows:

(Purpose: To exclude individuals with alternative minimum tax liability from eligibility for SCHIP coverage)

At the end of title VI, add the following:

SEC. _____. EXCLUSION OF INDIVIDUALS WITH ALTERNATIVE MINIMUM TAX LIABILITY FROM ELIGIBILITY FOR SCHIP COVERAGE.

(a) IN GENERAL.—Section 2102(b), as amended by this Act, is amended by adding at the end the following new paragraph:

''(6) EXCLUSION OF INDIVIDUALS WITH ALTERNATIVE MINIMUM TAX LIABILITY.—Notwithstanding any other provision of this title, no individual whose income is subject to tax liability imposed under section 55 of the Internal Revenue Code of 1986 for the taxable year shall be eligible for assistance under a State plan under this title for the fiscal year following such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. THUNE. Mr. President, I am pleased to be here today in support of the Kids First Act, which is being referred to as the McConnell-Lott or Lott-McConnell alternative, which will in the long run, in my view, do more to lower health care costs and help the underlying expansion bill we are debating here today. Let me say also it is frustrating that instead of debating a reauthorization of a very popular program—the SCHIP program—Members on both sides of the aisle are being asked to support a new program, a brandnew program, that will cover children and adults at 300 percent of the poverty level—and some at even higher levels.

Let me tell my colleagues a little bit about the makeup of the uninsured population in my State of South Dakota. Right now, approximately 2.6 percent of the children in my State are uninsured, or approximately 5,000 children. This percentage does not include the approximately 5,000 Native American children who receive their health care from the Indian Health Service. It is very important to break down these statistics in each State since the needs vary greatly in each State and from region to region.

For example, of the approximately 5,000 uninsured children in South Dakota, a number of these children are currently eligible but not enrolled in Medicaid or SCHIP. In other words, in my State, a number of our uninsured children are actually at or below 200 percent of the Federal poverty level. This SCHIP expansion bill under consideration doesn't focus on these children. Instead, it channels more money to cover children from families at higher incomes.

I mention these facts because I am concerned that the underlying bill misses the most key problems in my State for the uninsured, and it misses the basic goal to make sure that eligible low-income children are able to take full advantage of our safety net health care programs. If our goal is to simply put all children—or even all families, for that matter—in South Dakota, insured or uninsured, into Government health insurance, and make thousands more families in my State dependent on the Government for their health care, and limiting more choices for families and parents in my State, then that is an entirely different goal, and it is a goal I don't share.

Let me expand on that a little bit, if I might, to give an idea of what the uninsured problem is in its totality in South Dakota. Currently, according to our State, there are approximately 61,000 uninsured individuals—an uninsured rate of the adult population of about 9 percent. I have already discussed the statistics for children, so let me do so for adults. In a recent survey done by the State of South Dakota, the adult uninsured population breaks down in the following way: Of the total number of uninsured adults—approximately 53,390—13,401 are not employed. That amounts to about 25 percent. This means that approximately 70 percent of the uninsured adults in my State are actually working. If you break down that number even further, most of that number—31,000 out of 37,000—are employed, working 30 or more hours a week. They are not part-time workers.

About 10,500 of these employed and uninsured individuals are self-employed. We happen to have a large number of self-employed farmers and ranchers and business owners in my State who simply cannot afford health insurance.

But the uninsured population in my State could purchase insurance if it were more affordable. There are huge steps we could take to bring down the cost of insurance in my State for all of those small business employees and self-employed and cover even more uninsured, and without expanding a government program with tax increases.

Also, the cost to insure a child or adult under the SCHIP program is three to four times the cost of insuring a child with private insurance. That is an inefficient way of covering people who are uninsured. Already today, about half of our country's children are on public insurance. That is not sustainable, and it makes it nearly impossible in the State of South Dakota—a very rural State—already with more limited options than others when it comes to health care access to have a vibrant health care insurance market.

I was in the House of Representatives when the current SCHIP bill passed in the Balanced Budget Act of 1997. I voted for that. I voted for other reforms as a Member of the House of Representatives and since coming to the Senate. Frankly, I think the debate over health care needs to be engaged in this country, because we have way too many people who are uninsured. Our

health care costs in this country now are a couple billion dollars—we have heard that repeated throughout the debate on the floor today—or about 16 to 17 percent of our gross domestic product. That is an enormous amount of money that is spent on health care in this country.

I think we have to ask ourselves: What can we do to make reforms in the health care system that will lower costs, make health care more accessible to more people in this country, and make sure that the ranks of the uninsured decrease rather than increase?

One of the things I supported as a Member of the House of Representatives is small business health plans—expanding access to tax-advantaged accounts that allow people to own and take control of their own health care, such as health savings accounts. In fact, small businesses make up most of the employers in my State. In 2003, according to the Small Business Administration, there were 20,400 employer firms with fewer than 500 employees, which represented 96.9 percent of employer businesses in my State and employed approximately 63 percent of the nonfarm private workforce. The alternative I referred to—the McConnell-Lott alternative that will be offered—will allow for small business health plans, a proposal that will do much more for my State in the long run and strengthen our private health insurance market in the future. Small business health plans would allow small business associations to band their members together to purchase more affordable insurance, which increases their bargaining power to get better benefits at better prices such as big businesses currently get.

This proposal also gives small business health plans the flexibility to provide a variety of uniform benefit packages across State lines, which is the only way small business associations could provide new options affordably. As a result, this proposal would reduce the cost of health insurance for small employers by about 12 percent, or $1,000 per employee, according to a respected actuarial firm. The bill would also cover more than 1 million uninsured Americans and working families or 1 out of every 12 people who live in a family headed by someone who works for a small company. The Congressional Budget Office states that three out of every four small business employees would pay lower premiums under the McConnell-Lott alternative than under current law.

What I want for South Dakota is for more people to have control over their health care, more options for their care, and more competition in the insurance market to help bring prices down. In fact, last week I introduced a bill to expand access to private long-term care insurance by allowing individuals with IRAs or 401(k)s to withdraw funds penalty free to pay for long-term care premiums. This is extremely important in South Dakota and across the country where many seniors have to spend down their life savings to pay for long-term care or to qualify for Medicaid.

Mr. REID. Mr. President, could I ask the distinguished Senator from South Dakota if I could interrupt for a unanimous consent request?

Mr. THUNE. I yield to the majority leader.

Mr. REID. I yield a couple of minutes to Senator BAUCUS for the unanimous consent request.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 6 p.m. the Senate vote in relation to Senator DOLE's amendment No. 2554; that following that vote the Senate vote in relation to Senator BUNNING's amendment No. 2547; that following that vote the Senate vote in relation to Senator LOTT's amendment, as modified, No. 2593; and following that vote the Senate vote in relation to Senator KERRY's amendment No. 2602, as modified; that there be 2 minutes for debate, equally divided, prior to each vote; that no other amendments be in order prior to these votes; that any amendment not disposed of remain debatable and amendable, and that the time between now and 6 p.m. be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Is there objection?

The Senator from Idaho is recognized.

Mr. CRAIG. Reserving the right to object, I only want to speak to the division of the time between now and the proposed schedule of votes. I had come to the floor hoping to gain 10 minutes, and I wonder—the Senator obviously who is speaking now and the other Senator who has time reserved, if we could have some understanding in the allocation if it is possible for me to be able to speak for up to 10 minutes?

Mr. BAUCUS. First, Mr. President, I modify the unanimous consent request to say that after the first vote, there be 10 minutes between votes—that they be 10-minute votes.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I will do my best to allocate time from one of the remaining speakers so that the Senator from Idaho could speak as much as he can. We are trying to use the time as best we can between now and 6 o'clock.

Mr. REID. Mr. President, if I could interrupt, Senator THUNE was speaking and I would ask, how much more time does the Senator need?

Mr. THUNE. I say to the majority leader that I can wrap up my remarks speaking to the amendment specifically, but I am sure within the next 10 minutes.

Mr. REID. How much time does Senator CRAIG need?

Mr. CRAIG. I would hope to have somewhere near 10 minutes, if possible.

Mr. LAUTENBERG. Mr. President, I would ask whether it is understood that I would have up to 15 minutes, and I don't think I will need that long, but I do make that request.

Mr. BAUCUS. Mr. President, the order has been Senator NELSON and Senator THUNE—excuse me, the Senator from Florida, Senator THUNE, and Senator LAUTENBERG. I think given the time, if the Senators understand the three remaining speakers have a total of a half hour, we can work that out. The Senator would get at least 10 minutes, and depending upon the length of time other Senators speak, he may get more. Senator THUNE still has the floor.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. Reserving the right to object, Mr. President, I thought we had carved out an understanding.

The PRESIDING OFFICER. Under the current agreement, Senator THUNE has the floor, and the Senator from New Jersey, Senator LAUTENBERG, will follow. We are free to modify that agreement if there is no objection to add the Senator from Idaho for additional time.

Mr. CRAIG. Mr. President, I will not object. Let's get these Senators talking so we don't burn up any more slack time.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered.

The Senator from South Dakota may proceed.

Mr. THUNE. Mr. President, let me again pick up where I left off in regard to the cost of health care, both health care in the sense that we all need it, and as we get into retirement age, Medicare, but I was also making reference to long-term care in some legislation I introduced recently with regard to that.

It is important that affordable, long-term care insurance allow individuals to plan for their later years as well. More competition in the long-term care insurance market would mean more options for South Dakota's families and seniors, not to mention reductions in Federal spending. So putting the politics of Government on health care versus private insurance aside—and again, I believe that is a debate this Senate is going to have to join in the not too distant future, because I believe this is where the debate actually today is taking us. We are growing the amount of Government health care out there, pushing aside the options for private health care insurance. Frankly, I believe the thing that differentiates our country from those around the world and why people come here for health care rather than going to other countries is because we have the best health care in the world.

We have a robust free market-based system that allows for innovation and for research and comes up with literally the best therapies in the world.

I want to continue to make that market work. I don't want to make it harder for citizens in my State to get health insurance in the private marketplace. I fear that as we go down this road, we are starting to look at what, in effect, will be a major debate raging; it is raging across the country, but it will ultimately be dealt with here, and we will decide whether we want to have a government-run, bureaucratic health care system or whether we want to preserve the market-based system that has worked so well for us in the past. I don't want to make it harder for citizens in my State to choose and afford the insurance plan that is best for them.

Finally, I don't want to support doubling the size of this particular program, which, after 5 years, is going to have to be paid for with substantial tax increases on all Americans, because I think as we all know when you reach 2013, there is a cliff there, and at some point that issue is going to have to be dealt with because there is a huge funding shortfall under the proposal that is on the floor before us today.

I support the McConnell-Lott alternative, which reauthorizes the current SCHIP program and also helps lower health care costs for all Americans and because it allows for small business health plans and other types of alternatives that can be used by allowing South Dakotan small businesses to pool together to purchase more affordable health insurance and make further needed improvements to the underlying SCHIP program for children, as well as providing long-term solutions for lowering the cost of health care for all Americans.

I also wish to speak on amendment No. 2579, which I offered. Under this bill, the Congress will be making it possible, as my colleague from Montana pointed out earlier—it is not the case today, but there are some States around the country where this bill expands the underlying amount, or income eligibility, up to 300 percent of the Federal poverty level. But there are States which have waiver requests that would allow them to go to 400 percent of the poverty level. There is not anything in the underlying bill that prevents that from happening. That would make it possible for people to be put on the rolls of the SCHIP program for health care who are not only low income but who at the same time are subject to the alternative minimum tax, or the AMT, which is a tax intended for individuals and families who are wealthy.

Let me repeat that. Under the bill, individuals eligible for SCHIP—one of our Nation's safety net health insurance programs—may also be hit with the alternative minimum tax, which is meant to ensure that the wealthy in our society are paying their fair share of taxes. Effectively, the Federal Government could consider you poor under the SCHIP program for the purpose of providing you free health insurance, while at the same time the Internal Revenue Service considers you wealthy because of the level of income you make, so that you would have to pay higher taxes.

My amendment is pretty straightforward. It simply says that if a family finds out when they file their taxes that they are subject to the AMT, then the State in which they reside has to remove them from its SCHIP program by the following fiscal year. In other words, you cannot be eligible for both. You cannot be both rich and poor at the same time.

The SCHIP program should be preserved as a program for low-income children, for those who need it. This amendment is simply intended to ensure we continue focusing on that fact.

I remember, as I said, this debate from 1997, when we decided to create the SCHIP program. I was in the House at that time, and I supported the creation of this program to help the uninsured who have incomes too high to qualify for Medicaid. But I also remember the concerns of my colleagues that down the road we would be faced with pressure to expand the program. That is what has happened for decades with entitlement spending in this country. We know we are facing a fiscal crisis already in Medicare and Medicaid that cannot be solved with more Government expansion. Yet here we are today debating how much to expand a government safety net program for the uninsured, which originally was supposed to serve only low-income children.

Of course, my amendment today also points out the fallacy of the alternative minimum tax. Under current law, if we don't enact another ''patch'' or comprehensive AMT reform, middle-income families everywhere will be hit with this tax, and some people on SCHIP might even hit both. This amendment is not simply to point out we have a looming AMT problem, which we all know must be paid for, my amendment points out the mixed intentions of the underlying bill. If you want to make this debate about low-income children, let's do that, but if we want to expand eligibility for SCHIP for families making up to $62,000 or $82,000 for a family of four, if waivers are granted, then let's have a debate on the uninsured. Let's not kid ourselves that this bill doesn't take us closer to government-run, government-dominated universal health care for lower, middle, and upper income families.

I welcome the debate on the uninsured. There are so many things we can do to help lower the cost of prescription drugs and increase competition and portability in the health insurance market and help our small businesses and the self-employed in our States afford their health insurance. It is these ideas we need to discuss in a debate in this Chamber—an open and honest debate on the merits of a government-run system or one with competition, choice, and affordability. The estimated 61,000 uninsured adults and children in my State and the over 40 million uninsured around the country makes it imperative to this Congress to have that debate.

The amendment I offered, amendment No. 2579, would make it very clear under this bill that if somehow someone gets to an income level where they are running afoul of the alternative minimum tax or are considered wealthy or rich in this country, they are not also then considered poor in a sense that they qualify for the SCHIP program. That seems to be an inherent contradiction in this particular legislation.

I hope the Members of the Senate will support my amendment. It will improve the underlying bill.

I yield back the remainder of my time.

Mr. BAUCUS. Mr. President, I know the Senator from New Jersey wishes to speak. He has a very deep interest in one of the amendments. He wants to speak for 15 minutes. Maybe he can speak a little less than that. I would appreciate it.

Mr. LAUTENBERG. I will try to do that.

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

AMENDMENT NO. 2547

Mr. LAUTENBERG. Mr. President, we are going to soon be voting on an amendment proposed by Senator BUNNING. I rise to register my opposition to that amendment, and I hope my colleagues will follow me.

I come to the floor to defend the health and well-being of 3,000 children in the State of New Jersey who would have their children's health insurance stripped away from them by the Bunning amendment.

Our mission this week is to pass a bill to expand health coverage for our Nation's children. But instead of focusing on providing more coverage for children, the Senator from Kentucky has targeted 3,000 children in my State to take their coverage away.

None of us has any asset we treasure more than our children. None of us enjoys anything more than the smiles of our kids when they are feeling good and are in good health. That is why, when we see an attempt to remove health care from a modest-income family's children, who care so deeply about them, I wonder what it is that we are truly about.

This amendment is an assault on children from working families who require health care coverage. To think that while we spend $3 billion each and every week on the Iraq war, there is an unwillingness to provide the necessary funding to keep all our kids healthy regardless of their income situation. This one focuses on modest-income people. It is amazing that while we pledge to protect our people from harm, we shun the opportunity to shelter our children.

I wish to make our request clear to my colleagues, and I want them to recognize that we in New Jersey always

pay our way fully; we more than pay for the incredibly high cost of living in New Jersey. Our health care costs are among the highest in the Nation. Keeping our people healthy is a primary mission in our State. We have had stem cell research going back decades. Our pharmaceutical companies constantly research for new medicines to benefit the well-being of people across this country and the world.

The Bush administration has recognized the higher costs in New Jersey and explicitly granted our State the right to provide health care to children at the level it currently does. New Jersey is not trying to beat the system or get health coverage for its children in a way that is unfair to other States—not at all. The State of New Jersey is legitimately trying to provide health insurance to children, recognizing the distinct economic characteristics of our State.

The Bunning amendment is particularly discouraging, given New Jersey's support when it comes to helping other States in need. We know that other States have different needs than we do, and we have unique challenges we face as well. Time and again, New Jersey taxpayers are asked to shoulder the burden and help other areas of the country that are in need. In fact, for every dollar New Jersey gives to the Federal Government, we only get back 55 cents in Federal spending programs. Compare that with States such as Kentucky, for example, which for every dollar paid gets $1.45 back. Some States get up to $2 back for each dollar they pay.

Whether it is the universal service fund for telephones, essential air service in aviation or other programs, New Jersey gives far more than it gets back.

I want to be clear. I support many of these programs for other States. I recognize this occurs because New Jersey is a State with a higher-than-average income and higher-than-average costs compared to other States.

But we care as much about our children as other people do across the country. More than anything, we want our kids to be healthy.

There are 3,000 children in New Jersey who are depending on Senators to oppose the Bunning amendment—3,000 children who are looking to all of us to let them continue to have health care.

The Bunning amendment is contrary to everything we are trying to accomplish on the floor this week. If that amendment is adopted, this bill will be tainted with the legacy of taking health insurance away from children who need it but whose families cannot afford to supply it on their own.

I have many families who come in to see me and bring their children with them. I welcome them with open arms. There is nothing I find more satisfying than to see parents and their children together. They come in often with diseases that are difficult, such as autism, diabetes, and asthma. Not only do these children require a lot of love, affection, and attention but, unfortunately, very often it is at a cost that few families can bear. I want to help those kids, those families, and I reach out to them in any way I can. I want stem cell research to be available. I want more money spent on general health research.

I hope my colleagues will reject this amendment on a bipartisan basis. I commend the chairman of the Finance Committee and the ranking member for the work they did. They overwhelmingly rejected the amendment of the Senator from Kentucky on a bipartisan vote. This amendment that has been authored by the Senator from Kentucky flies in the face of the good judgment of the Finance Committee. I hope my colleagues will reject this amendment, the Bunning amendment, once again when it gets to the Senate floor.

I am pleased to yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 2593

Mr. KYL. Mr. President, I will speak briefly to the Republican alternative—the amendment that will be voted on later as a comprehensive alternative to the bill. Unlike the Finance Committee bill, the Republican alternative achieves the following goals:

First, it reauthorizes SCHIP and preserves health care coverage for millions of low-income children.

Secondly, it adds 1.3 million new children to SCHIP coverage.

Third, it provides $14 billion in new SCHIP allotments over the $25 billion baseline over the next 5 years.

Fourth, the offset is with no new tax increases and, importantly, in contrast in the committee bill, no gimmicks to meet the budget considerations.

Next, it includes funds for SCHIP coverage from fiscal year 2013 to 2017. This is important because the Finance Committee bill, in comparison, uses a budget gimmick to reduce the SCHIP funding spending over that critical period of time. As a result, the Republican alternative includes more money for SCHIP over 10 years—$85.1 billion as compared to the Finance Committee bill of $81.7 billion.

Next, it minimizes the reduction in private coverage by targeting SCHIP funds to low-income children. It doesn't provide the coverage for the adults or children for higher income families who may have access to private health care insurance, as does the committee bill. In fact, I note that according to CBO, for the newly eligible people to be covered, there is a one-for-one crowd-out effect by the committee product. That is to say, for every new family brought on for SCHIP coverage, there is one that goes off private health insurance coverage. That is not a goal to which we should be aspiring.

Next, the Republican alternative promotes market-based health reforms, such as small business health plans and health savings accounts.

Finally, it requires a Treasury Department study on ways to make the tax treatment of health care more equitable, something the President raised in his State of the Union speech earlier this year and which we do need to study to come up with a more equitable tax system.

For all these reasons, I urge my colleagues to support the Republican alternative. I note that it is very simple in terms of the two choices that confront the Senate: one, a budget buster that does not protect SCHIP coverage over 10 years and represents an open-ended financial burden on American taxpayers and takes a significant step toward Government-run health care, or a fiscally responsible SCHIP reauthorization that preserves coverage for millions of low-income children that is fully offset without budget gimmicks or tax increases and promotes market-driven health reforms.

To me, the choice is very clear. The Republican alternative is the right solution for everyone. I urge its adoption by my colleagues.

The PRESIDING OFFICER. Who yields time? The Senator from Vermont.

AMENDMENT NO. 2602

Mr. SANDERS. Mr. President, I will be very brief. I rise in support of the Kerry amendment. I do so for two reasons. No. 1, while I applaud Senator BAUCUS and Senator GRASSLEY for their work on expanding health insurance to 3.2 million more children, we should be aware that expansion only increases coverage for one-third of children in this country who are uninsured. This is the United States of America, and we should not continue to be embarrassed by the fact that we remain the only country in the industrialized world that does not provide health insurance for all of our children. Going forward for 3.2 million children is undoubtedly a step forward. We have, however, a long way to go, and the Kerry amendment would take us closer.

The second point I wish to make deals with national priorities and the direction in which we believe our country should go.

I hear that a lot of my friends are talking about the expense involved in providing health insurance to our children. This particular bill would cost us $35 billion over a 5-year period. Is $35 billion a lot of money? It is. Is it worth spending that money to cover 3.2 million children? It is. Yet I find it ironic that the President of the United States and others are telling us we cannot afford this expenditure at the same time that many—the President, certainly—are telling us we need to repeal completely the estate tax, which only applies to the wealthiest two-tenths of 1 percent of our population. If we were to repeal the estate tax, one family, the Walton family who owns Wal-Mart, would receive tax breaks worth $32.7 billion for one family. So the debate today is whether we spend $35 billion to

cover, over a 5-year period, 3.2 million children or, as the President and others would have us do, give $32.7 billion in tax breaks to one family. This is an issue of national priorities.

Very briefly, because I see my friend from Iowa standing, it seems to me we have to move not only to provide health insurance for all our children, but, in fact, we need to move to a national health care program that guarantees health care for every man, woman, and child in this country, and we can.

I conclude on that note. This is a moral issue. We have to cover our children. This is an issue of national priorities. For all of those who think we are spending too much money, they may want to think twice about the hundreds of billions of dollars in tax breaks they have given to the wealthiest 1 percent and the ideas they have for the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, if it is OK, I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, this week the Senate is engaged in an extremely important debate about the direction we as a Congress want to take in ensuring health care for all Americans.

I recognize that the bill we are debating this week is literally one that focuses on children's health. But, I believe the design of this legislation and who we are targeting tells us something about how the majority in the Senate believes we should provide health care for all of our citizens.

This bill lays out one way to provide health care coverage in this Nation. It says ''increase taxes, increase government spending, and have the Government provide all health care plans.''

That is a failing formula. And now we are going to use that tax-and-spend formula to move further down the road towards socialized medicine.

Under this bill, middle-class taxpayers in Idaho will be supporting health insurance for some families making more money than they are.

I strongly oppose the Finance Committee legislation. Instead, I will vote for the McConnell-Lott alternative bill.

Let me make it clear that I support reauthorizing the SCHIP program to ensure that low-income children have health insurance. No one should conclude that my vote against this bill is a vote against insuring poor children. My vote is a vote against massive tax increases and out-of-control spending. It is against a tax-and-spend policy that more than doubles the cost of a program for poor children so we can cover those with higher income. And it is against a budget gimmick that leaves an unfunded liability of $40 billion in just 5 years.

A little history and few facts are in order.

When a Republican Congress and a Democratic President set out in 1997 to insure low-income children, we talked about 10 million uninsured.

At that time, there were about 20 million children on Medicaid. So we needed to cover about 10 million kids with the SCHIP program or Medicaid.

Today, there are 36 million children enrolled in either Medicaid or SCHIP. Sounds like we achieved our goal and more.

Yet some of my colleagues on the other side of the aisle say we are still 9 million short. Somehow, we insured 16 million more kids in the last 10 years and we have made no dent in the problem? Or have we moved the goal post? I think we have moved them.

That is why I am pleased that Senators MCCONNELL, LOTT, and others have offered an alternative that keeps this program focused on the group it was created to serve—low-income children.

The Republican alternative will reauthorize the SCHIP program for another 5 years. Again, all of us favor providing health insurance to low-income children. It will also correct some of the policy problems with the current program and make some changes to the Finance Committee approach.

First and foremost, the Republican alternative will provide, coverage for all children at or below 200 percent of the Federal poverty level. That is the goal of the Children's Health Insurance Program.

The Finance Committee bill will increase the coverage allowance to 300 percent of the poverty level and, in some cases, allow coverage of even higher incomes than that.

In addition, the Republican alternative will stop the waivers that have led to the current situation where a children's health insurance program covers about 700,000 adults.

Also, the Republican alternative will provide $400 million in outreach funding. This funding represents the key to the philosophical difference between the Republican bill and the Finance Committee bill.

Our bill demands that Government stay focused on the population in need. We shouldn't just raise the coverage ceiling. Let's go out and find the one's who are already eligible and have no insurance. And then let's enroll them.

Further, the Republican alternative would make sure that we have a consistent definition of income. No longer can States simply ''disregard'' all kinds of income in an effort to enroll higher income people. Frankly, the practice of disregarding income so that nonpoor citizens qualify for poverty programs is fairly offensive.

The other important aspect of the Republican alternative is that it addresses health care coverage in a larger context.

Let's face it, uninsured children are just the tip of the health insurance problem in this Nation.

We are once again tinkering around the edges rather than taking on systemic reform. The Democratic tinkering moves us in the direction they want for the Nation—socialized medicine.

Republicans have a better idea.

The bill will provide much needed relief to small business to allow them to provide health care benefits to their employees.

Nearly 60 percent of the 45 million uninsured Americans today are employed by, or reliant on, small business. In other words, if we can help small business insure their employees, then we can make a significant dent in the total number of uninsured Americans.

I just do not see how we can take up the issue of health care and health insurance and not talk about one way we can truly help insure Americans. Of course, my colleagues on the other side of the aisle don't want to do that because it doesn't take us further down their road towards socialized medicine.

I don't want to go down that road. So I will vote for the Republican alternative. It is fiscally responsible, it focuses the SCHIP program on those it was created to help, and it takes a larger look at the problem of health insurance for all Americans.

I urge my colleagues to support the McConnell-Lott amendment.

Mr. President, I ask my colleagues to support the McConnell-Lott alternative so we do not begin a progressive march down a road toward socialized medicine.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the alternative Senator CRAIG just spoke about is the amendment I wish to speak against. I am a Republican, but I am part of the bipartisan effort to pass this SCHIP bill. So I will tell my colleagues on both sides of the aisle why the Lott amendment, or the Republican alternative, should not be accepted.

First of all, I commend the people who authored the alternative because all ideas ought to be considered. It is creative, and it is thoughtful. It certainly contributes to the debate. In reading through it, I am struck by the similarities between this proposal and the bipartisan bill before the Senate that I am backing. Both proposals increase funding for State allotments. Both proposals largely base the new allotments on State projections. Both proposals limit the availability of allotments to 2 years. Both proposals restrict coverage for nonpregnant adults. Both proposals prohibit new waivers for adult coverage. Both proposals provide funds for outreach and enrollment activities. Both proposals include additional State options for premium assistance.

Lest my colleagues think I am attacking them with faint praise, I do acknowledge there are significant differences in the approaches between the Republican alternative and our bipartisan bill that is before the Senate.

The position taken by the Lott amendment is that SCHIP has been a successful small program that covers about 6 million kids in 2007 and should not cover many, if any, more. The position of the Lott amendment is that any increase in the enrollment of children should be limited to the relatively better off SCHIP kids and not cover the poorer Medicaid kids. That is a perfectly reasonable position for them to take, but that is the biggest difference between the Lott amendment and the bipartisan proposal that is referred to as Grassley-Baucus.

The difference is that the amendment supporters cannot claim that it increases coverage for any of the 4 million uninsured children who are eligible and entitled to Medicaid, the kids who need it most. In fact, not only does the Lott amendment do virtually nothing to improve coverage for the 4 million children eligible for Medicaid, but it adds insult to injury by reducing the Medicaid Program by over $10 billion to pay for an expansion of SCHIP.

Let me put this another way. The Lott amendment drains billions out of the Medicaid Program, which is a program that covers the poorest of the poor, and it redirects that funding to SCHIP, a program that covers kids and families who make too much to qualify for Medicaid. It is the old issue of robbing Peter to pay Paul. The Senate Finance Committee bill, on the other hand, covers 1.7 million kids eligible for Medicaid but not enrolled.

At this point, it is important to reiterate for colleagues that the Senate Finance Committee bill does not expand Medicaid. The bill does not change eligibility for Medicaid one single bit.

The Senate Finance Committee bill does include the very precise and targeted incentive funds that Director Peter Orszag of CBO concluded is ''as efficient as you can possibly get per new dollar spent.'' This incentive fund helps increase coverage of 3.2 million uninsured children. The Lott amendment, however, does not increase coverage for the lowest income children and actually causes some individuals, including children currently enrolled in SCHIP, to lose coverage.

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

Mr. BAUCUS. Mr. President, I yield whatever time the Senator from Iowa desires.

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

Mr. GRASSLEY. Mr. President, we simply, then, have an honest disagreement on whether we want to cover additional low-income kids. Some Members do; some Members do not. I am on the side that wants to cover additional low-income children who are eligible for coverage. It is as simple as that.

The other main difference is the income eligibility for children. Right now, 91 percent of the SCHIP funds are being spent on kids at or below 200 percent of poverty. Under current law, States have the flexibility to adjust their income eligibility to respond to rising health care costs and the cost of living within a particular State because it differs so much between California and Iowa, to name two States.

The Lott amendment imposes a ''Washington knows best'' mentality regarding a State's ability to determine what income within that State is most appropriate. And then it goes one step further: It reduces the Federal match for covering kids above 200 percent of poverty. There are 18 States that currently cover kids above 200 percent of poverty. Under this proposal, a State currently receiving the enhanced match under SCHIP for coverage of eligible children would see that match reduced for those very same children.

While I would prefer that all States focus on children at or below 200 percent of poverty, the fact remains that $42,000 a year for a family of four is a lot harder to get by on in some States than in other States. By imposing this new requirement that States limit eligibility, the Lott amendment would cause kids to lose coverage. The table CBO sent us on the Lott amendment confirms that. I am sorry, but in a bill designed to cover kids, cutting them off is a step in the wrong direction.

The Finance Committee bill takes a different approach. The committee bill would lower the Federal payments to States that choose to cover kids over 300 percent of poverty level. States that go above that limit would only get the regular Medicaid match. Those States wouldn't get the enhanced Federal match under SCHIP for these higher income kids. So the Finance Committee bill creates a disincentive for States to go in that direction.

Some have alleged that the Senate Finance Committee bill would permit States to cover kids and families who make over $80,000. That is false. What the Finance Committee bill does is allow States that have passed State laws to increase eligibility to be grandfathered at the SCHIP match as it is right now. There are no States that do that today. So it is incorrect to say that the Finance package expands coverage for these higher income kids. That just is not accurate.

Right now, the only State that is even proposing to go as high as 400 percent of poverty is New York, and their State plan amendment still must be approved by the Bush administration. The Bush administration, not Congress, has to decide whether to approve that coverage.

So let me repeat. The Senate Finance bill would only permit New York to get an enhanced match for kids and families over 83 percent a year if this administration approves their plan, and it gives my colleagues on this side of the aisle who don't want that to happen a chance to lobby the Secretary of HHS to make sure it doesn't happen.

Given the criticism they leveled against the Finance plan, I would be shocked if they did approve it. I will wait and see, however, if their actions match their rhetoric.

Wrapping up, let me just say again that the Lott amendment has many similarities that I have delineated for the Senate—many similarities to the Finance Committee package. I commend them for their work in putting together this proposal, and I would hope that since their amendment has so many similarities to the Senate Finance Committee bill, perhaps they will take another look at the policies in our bipartisan package. There are key differences in the two approaches, however. I appreciate my colleagues' work in pointing out these differences. I, for one, am happy to stand on the side of covering kids rather than cutting them out, and I support giving States flexibility.

AMENDMENTS NOS. 2540 AND 2541 TO AMENDMENT NO. 2530

Madam President, I call up for consideration two amendments by Senator ENSIGN, amendments Nos. 2541 and 2540.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. ENSIGN, proposes amendments numbered 2540 and 2541 to amendment No. 2530.

Mr. GRASSLEY. Madam President, I ask that further reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2540

(Purpose: To prohibit a State from using SCHIP funds to provide coverage for nonpregnant adults until the State first demonstrates that it has adequately covered targeted low-income children who reside in the State)

On page 58, between lines 16 and 17, insert the following:

''(d) COVER KIDS FIRST IMPLEMENTATION REQUIREMENT.—Notwithstanding the preceding subsections of this section, no funds shall be available under this title for child health assistance or other health benefits coverage that is provided for any other adult other than a pregnant woman, and this title shall be applied with respect to a State without regard to such subsections, for each fiscal year quarter that begins prior to the date on which the State demonstrates to the Secretary that the State has enrolled in the State child health plan at least 95 percent of the targeted low-income children who reside in the State.''.

AMENDMENT NO. 2541

(Purpose: To prohibit a State from providing child health assistance or health benefits coverage to individuals whose family income exceeds 200 percent of the Federal Poverty Level unless the State demonstrates that it has enrolled 95 percent of the targeted low-income children who reside in the State)

At the end of title I, add the following:

SEC. 112. COVER LOW-INCOME KIDS FIRST.

Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 602, is amended by adding at the end the following new paragraph:

''(12) NO PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE OR HEALTH BENEFITS COVERAGE FOR INDIVIDUALS WHOSE GROSS FAMILY INCOME EXCEEDS 200 PERCENT OF THE POVERTY LINE UNLESS AT LEAST 95 PERCENT OF ELIGIBLE LOW-INCOME CHILDREN ENROLLED.—

Notwithstanding any other provision of this title, for fiscal years beginning with fiscal year 2008, no payments shall be made to a State under subsection (a)(1), or any other provision of this title, for any fiscal year quarter that begins prior to the date on which the State demonstrates to the Secretary that the State has enrolled in the State child health plan at least 95 percent of the low-income children who reside in the State and are eligible for child health assistance under this State child health plan with respect to any expenditures for providing child health assistance or health benefits coverage for any individual whose gross family income exceeds 200 percent of the poverty line.''.

Mr. GRASSLEY. Madam President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. 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. MCCONNELL. Madam President, I am going to proceed just for a few moments on my leader time.

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

FISA MODIFICATION EFFORT

Mr. MCCONNELL. Madam President, the ranking member of the Intelligence Committee, Senator BOND, and I, will be introducing and later placing on the calendar a bill related to the FISA modification effort that has been underway on a bipartisan basis over the last few weeks.

Senator BOND and I will be, as I said, placing in the RECORD, and then subsequently doing a rule XIV placing it on the calendar, a proposal that the administration thinks makes sense to deal with the modifications that everyone seems to agree in principle need to be made to the FISA procedure.

With that, I don't know that I can yield leader time to somebody who isn't a leader, so let me just say that having given that notice, we will be placing that on the calendar for later this evening.

Mr. REID. Madam President, just a brief comment on the distinguished Republican leader's statement.

As we speak, there are meetings going on to see if we can resolve this matter in a manner that is acceptable to Republicans and Democrats in the Senate, and of course then we have to also be concerned about the House. Senator MCCONNELL and I were in a meeting early this morning with individuals, including Admiral McConnell, and we hope something can be worked out.

We waited a little longer than I wanted, waiting for Admiral McConnell's papers to come here this afternoon, but they are here and they are being reviewed. I spoke to Senator LEVIN just a few minutes ago. There is nothing serious, but Senator ROCKEFELLER has been with his wife today on a minor problem, but it was necessary he not be here. So we are trying to work our way through this.

Hopefully, we can resolve this. It is something important, we are going to do everything we can, and we hope all sides will be reasonable. At this point they have been. It is an issue we certainly need to resolve, if at all possible, before we leave for our August recess.

Mr. MCCONNELL. Madam President, if I may, let me just commend the majority leader on his observations. I know people on both sides of the aisle are working intensely on this issue, and I, too, hope and believe we will get it resolved by the end of the week.

I did, however, want all Members of the Senate to be aware of a proposal that the administration feels very strongly would get the job done in the hopes that it would enjoy bipartisan support. Senator BOND and I will address the details of it after the votes, and I will rule XIV it onto the calendar at that point.

I yield the floor.

AMENDMENT NO. 2554

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided on amendment No. 2554, offered by the Senator from North Carolina.

Mrs. DOLE. Madam President, increasing the tax on tobacco unfairly burdens low-income Americans. My amendment is simple: It creates a 60-vote budget point of order against any legislation that includes a Federal excise tax increase that would unfairly affect low-income individuals, defined as taxpayers with earned income less than 200 percent of the Federal poverty level.

According to the Centers for Disease Control report from 2003 to 2005, 28.5 percent of smokers were classified as poor—below 100 percent of the Federal poverty level—and 25.9 percent of smokers were classified as near poor—between 100 and 200 percent of the Federal poverty level. As these numbers clearly show, the tax increase proposed in this bill unfairly falls on the shoulders of those who can least afford it.

I am urging my colleagues to acknowledge that the proposed tax increase is an irresponsible and fiscally unsound policy. I urge my colleagues to support the fact that this has a negative impact and is disproportionately hard on the poor.

Madam President, I ask for the yeas and the nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I understand the Senator does not like the way we are paying for this bill. The more appropriate response would be for the Senator to offer an amendment to strike it or to find some other way to pay for it. I do not think it is wise for this body to enact another procedural hurdle as we consider legislation generally here; that is, another hurdle that would block attempts for us to help people in the States we represent. I don't think that is needed.

Secondly, this is the wrong time to consider changing Senate procedure. The more appropriate time is during consideration of the budget resolution, when the Senate has all the budget issues before it. I don't think it makes any sense to put another procedural obstacle before us to make it more difficult for Congress to respond to the needs of the American people.

I encourage Senators to, therefore, not support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 32, nays 64, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—32

Allard	Crapo	Lott
Barrasso	DeMint	Martinez
Bond	Dole	McConnell
Bunning	Ensign	Nelson (NE)
Burr	Enzi	Sessions
Chambliss	Graham	Shelby
Cochran	Hagel	Thune
Coleman	Hutchison	Vitter
Collins	Inhofe	Voinovich
Cornyn	Isakson	Warner
Craig	Kyl	

NAYS—64

Akaka	Feingold	Murray
Alexander	Feinstein	Nelson (FL)
Baucus	Grassley	Obama
Bayh	Gregg	Pryor
Bennett	Harkin	Reed
Biden	Hatch	Reid
Bingaman	Inouye	Roberts
Boxer	Kennedy	Salazar
Brown	Kerry	Sanders
Byrd	Klobuchar	Schumer
Cantwell	Kohl	Smith
Cardin	Landrieu	Snowe
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Clinton	Levin	Stevens
Coburn	Lieberman	Sununu
Conrad	Lincoln	Tester
Corker	Lugar	Webb
Dodd	McCaskill	Whitehouse
Domenici	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murkowski	

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The amendment (No. 2554) was rejected.

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

Mr. GRASSLEY. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2547

The PRESIDING OFFICER. Under the previous order, there will now be 2

minutes equally divided on amendment No. 2547 offered by the Senator from Kentucky.

Mr. BUNNING. Madam President, my amendment is simple. It strikes the exemption for New York and New Jersey to get Federal dollars for covering families above 300 percent of poverty. No other State in the country gets that kind of an exemption. New Jersey's SCHIP program covers families up to $72,000 a year, 350 percent. New York is planning on covering families making up to $82,000 a year. It has not yet been approved by HHS.

Why should people in every other State subsidize Government health care for families in New York and New Jersey at these higher incomes? My amendment does not kick kids off SCHIP. The State can still cover them at their Medicaid matching rate. It is the State's choice. If people in these two States think this is a priority, then they should be willing to pay more for this type of benefit. I am sure New York and New Jersey are expensive areas to live. But those States have more resources and a larger tax base than others. I urge a ''yes'' vote on my amendment.

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

The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, we listened to the comments from our colleague from Kentucky about how much New Jersey or New York can afford. But I will tell you this, New Jersey, for each dollar that it sends down to the Federal Government, it gets barely half of it back. But not in Kentucky. In Kentucky, if they send in a dollar, they get $1.45 back. We cannot compare things. We cannot compare costs of living. The poverty level for a four-person family is $20,000. That means their income is about $5,000 a month. In New Jersey, after taxes, housing, and other costs, they're left with about $865. And yet their health care costs average above $2,000.

As a consequence, with $2,000 a month for health care costs, every family is burdened up until almost the highest of incomes. So we ask fairness. Here we are trying to expand health care for children, and our colleague wants to take that away. This is not fair, it is not right, and I hope we will defeat this soundly.

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

The Senator from Montana.

Mr. BAUCUS. Madam President, I move to table the Bunning amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—53

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Grassley	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Hatch	Obama
Boxer	Inouye	Pryor
Brown	Kennedy	Reed
Byrd	Kerry	Reid
Cantwell	Klobuchar	Salazar
Cardin	Kohl	Sanders
Carper	Landrieu	Schumer
Casey	Lautenberg	Snowe
Clinton	Leahy	Stabenow
Conrad	Levin	Tester
Dodd	Lieberman	Webb
Domenici	Lincoln	Whitehouse
Dorgan	McCaskill	Wyden
Durbin	Menendez	

NAYS—43

Alexander	Crapo	McConnell
Allard	DeMint	Murkowski
Barrasso	Dole	Roberts
Bennett	Ensign	Sessions
Bond	Enzi	Shelby
Bunning	Graham	Smith
Burr	Gregg	Specter
Chambliss	Hagel	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Thune
Coleman	Isakson	Vitter
Collins	Kyl	Voinovich
Corker	Lott	Warner
Cornyn	Lugar	
Craig	Martinez	

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The motion was agreed to.

Mr. BAUCUS. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2593

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 2593, as modified, offered by the Senator from Mississippi.

Mr. LOTT. Madam President, the Baucus bill we have before us is a $35 billion increase over the current $25 billion, a $60 billion bill. Our Kids First alternative amendment targets children. SCHIP does not have an A in it. We should not move steadily toward more and more higher income children and adults being included in the program. This one is targeted to children. The cost is $9 billion above the $25 billion in the baseline. It will cover an additional 1.3 million children over the next 5 years. This 40-percent increase would maintain children currently enrolled and insure 2.2 million more children by 2017 than is in the underlying Baucus bill. It also includes the small business health plans, which I believe would lead to the coverage of an additional 10 or 20 million people who work for small businesses that now cannot get coverage. There is no tax increase in this provision. It is paid for by equalizing the State match for Medicaid administrative expenses at 50 percent.

Mr. MCCONNELL. Madam President, the State Children's Health Insurance Program was created to target the health care needs of poor children whose families made too much to be eligible for Medicaid but were still in danger of not being able to afford private health insurance.

SCHIP is in many ways successful, as last year, 6.6 million children had health care coverage thanks to it, including more than 50,000 in the Commonwealth of Kentucky. From 1996 to 2005, the rate of children living without health insurance in America dropped by 25 percent.

So as the Senate turned to debate the reauthorization of this Federal/State partnership, I had hoped that all of my colleagues would focus on SCHIP's true goal: covering children. Unfortunately, that is not what the Finance Committee's bill does. This bill is a dramatic departure from current SCHIP law that will significantly raise taxes, increase spending, and lead to Government-run health care.

At a time when the people of America have made clear that they want us to reduce Government spending, Democrats are going to spend $112 billion of the taxpayers' money. And part of this increase will go toward people that SCHIP was never meant to cover, as this proposal will allow more adults to piggyback onto a children's health program.

So Senators LOTT, KYL, GREGG, BUNNING, and I have proposed an alternative measure I hope all of my colleagues will consider. Our Kids First Act will refocus SCHIP to help the people it was designed to help: low-income children.

The Kids First Act will reauthorize SCHIP for 5 years and would ensure that children enrolled in SCHIP stay covered by adding $14 billion in funding above and beyond the baseline SCHIP budget.

Our alternative will add 1.3 million new kids to the SCHIP program by 2012. By contrast, the Finance Committee bill actually begins reducing kids' coverage in 2012 and results in fewer children having SCHIP coverage in 2017.

Our alternative also provides $400 million over the next 5 years for States to spend on outreach and enrollment for low-income children who are eligible but not on SCHIP, so we can enroll them. This money will help guarantee that SCHIP dollars go toward the low-income kids the program is meant to help.

The Kids First Act takes several measures to make health insurance more affordable and cost-effective. For

instance, it encourages premium assistance to aid parents in buying private health insurance for their children.

It also includes the small business health plan legislation we considered in the 109th Congress. Of the 20 million working Americans who do not have health insurance, nearly half work in firms of 25 or fewer.

Small business health plans would allow those firms to band together across State lines, increase their bargaining power and afford better health care coverage for their employees.

Finally, our alternative ensures that the taxpayers' dollars are spent appropriately by decreasing the number of adults who can take advantage of the program.

While considerably less expensive to the taxpayers than the Finance Committee's bill, it is worth noting, that many States, including Kentucky, would fare better next year under the Kids First Act than under the committee bill.

Our plan is fiscally responsible and focuses Government assistance on those who really need it. It reauthorizes and improves upon a program that works instead of transforming it into a license for higher taxes, higher spending, and another giant leap toward Government-run health care.

It can receive a Presidential signature, and it deserves this Senate's support.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, effectively, the Lott amendment is actually going to cause in some States a reduction in kids who are covered. It is very nominal, a slight increase overall. It does not begin to address the 6.6 million kids we need to cover under CHIP, as I think most of us want to. The basic point is, this amendment has lots of other provisions in it which I do not think we should appropriately consider at this point. The small business health plans, HSAs, is a debate for another day. It has nothing to do with the Children's Health Insurance Program. I don't think it is wise to put those battles on the backs of kids. We should get this legislation passed. It helps kids. It cuts back adults. It is moderate. It cuts back on some excessive coverage in some States, but it is unwise to radically restructure health insurance with the health insurance provision as well as HSAs.

Mr. LOTT. 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 amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 35, nays 61, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—35

Alexander	Crapo	Lott
Allard	DeMint	Martinez
Barrasso	Dole	McConnell
Bennett	Ensign	Sessions
Bunning	Enzi	Shelby
Burr	Graham	Stevens
Chambliss	Gregg	Sununu
Coburn	Hagel	Thune
Cochran	Hutchison	Vitter
Corker	Inhofe	Voinovich
Cornyn	Isakson	Warner
Craig	Kyl	

NAYS—61

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Grassley	Nelson (NE)
Biden	Harkin	Obama
Bingaman	Hatch	Pryor
Bond	Inouye	Reed
Boxer	Kennedy	Reid
Brown	Kerry	Roberts
Byrd	Klobuchar	Salazar
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Smith
Casey	Leahy	Snowe
Clinton	Levin	Specter
Coleman	Lieberman	Stabenow
Collins	Lincoln	Tester
Conrad	Lugar	Webb
Dodd	McCaskill	Whitehouse
Domenici	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murkowski	

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The amendment (No. 2593), as modified, was rejected.

Mr. REID. I move to reconsider the vote.

Mr. DURBIN. 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 is recognized.

Mr. REID. Mr. President, I have spoken to the distinguished Republican leader. I have spoken to the two managers of the bill. I think it would be appropriate to announce at this time there will be no more rollcall votes tonight. However, if people have a desire to offer amendments, the managers are willing to talk to you about those amendments. They need some idea of who else wants to offer amendments. You can hear from them.

My main purpose in making this statement is announcing there will be no more rollcall votes tonight, after this next vote, of course.

AMENDMENT NO. 2602

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 2602, as modified, offered by the Senator from Massachusetts, Mr. KERRY.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, in the underlying bill, we have made a decision to insure some 3.3 million kids who are among the poorest in the country. But we still have about 5.7 million kids who will not get covered. So you have 9 million kids without coverage, and this bill will seek to insure 3.3 million.

What my amendment seeks to do is recognize that if you have a rationale that says it is worthwhile to insure all those kids, we also ought to be insuring the additional 1 million kids who are Medicaid eligible who will not be insured under this bill.

So my amendment seeks to do what we said we would do in the original budget resolution, where we allocated $50 billion to insure children. It pays for it by not granting to those earning more than $1 million a year a continuation of their tax cut next year. That is how you pay for it.

Mr. President, .18 percent of all Americans will be affected in an effort to guarantee that the poorest of the poor children in America—Medicaid eligible—will be eligible for health care coverage.

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

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am not going to speak to the substance of the amendment but to the process. This bill is a bipartisan approach where a lot of different points of view were brought together to a bill that can pass this Senate. We have people on the left for whom $50 billion might not be enough money. We have people on the right for whom anything over $5 billion was too much money. We have come out at $35 billion. This is a well-balanced, well-thought-out compromise.

Compromise is the essence of getting things done. You have to bring people in the Senate to the center to get things done or nothing is going to get done. In order to get this job done, we have to defeat this amendment, regardless of the merits of it.

I yield back.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KERRY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 36, nays 60, as follows:

[Rollcall Vote No. 292 Leg.]

YEAS—36

Akaka	Durbin	Menendez
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Inouye	Obama
Brown	Kennedy	Pryor
Cantwell	Kerry	Reed
Cardin	Lautenberg	Reid
Casey	Leahy	Sanders
Clinton	Levin	Schumer
Collins	Lieberman	Tester
Dodd	Lincoln	Whitehouse

NAYS—60

Alexander	Dole	McCaskill
Allard	Domenici	McConnell
Barrasso	Dorgan	Murkowski
Baucus	Ensign	Nelson (NE)
Bennett	Enzi	Roberts
Bond	Graham	Salazar
Bunning	Grassley	Sessions
Burr	Gregg	Shelby
Byrd	Hagel	Smith
Carper	Hatch	Snowe
Chambliss	Hutchison	Specter
Coburn	Inhofe	Stabenow
Cochran	Isakson	Stevens
Coleman	Klobuchar	Sununu
Conrad	Kohl	Thune
Corker	Kyl	Vitter
Cornyn	Landrieu	Voinovich
Craig	Lott	Warner
Crapo	Lugar	Webb
DeMint	Martinez	Wyden

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The amendment (No. 2602), as modified, was rejected.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2558, 2537, AND 2562, EN BLOC

Mr. GRASSLEY. Mr. President, en bloc, I want to do for Senator GRAHAM and for Senator KYL three amendments, and I call up en bloc amendments Nos. 2558, 2537, and 2562.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2558

(Purpose: To sunset the increase in the tax on tobacco products on September 30, 2012)

Beginning on page 218, strike line 5 and all that follows through page 220, line 2, and insert the following:

(a) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''($1.594 cents per thousand on cigars removed during 2000 or 2001)'' in paragraph (1) and inserting ''($50.00 per thousand on cigars removed after December 31, 2007, and before October 1, 2012)'',

(2) by striking ''(18.063 percent on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''(53.13 percent on cigars removed after December 31, 2007, and before October 1, 2012)'', and

(3) by striking ''($42.50 per thousand on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''($10.00 per thousand on cigars removed after December 31, 2007, and before October 1, 2012)''.

(b) CIGARETTES.—Section 5701(b) of such Code is amended—

(1) by striking ''($17 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (1) and inserting ''($50.00 per thousand on cigarettes removed after December 31, 2007, and before October 1, 2012)'', and

(2) by striking ''($35.70 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (2) and inserting ''($104.9999 per thousand on cigarettes removed after December 31, 2007, and before October 1, 2012)''.

(c) CIGARETTE PAPERS.—Section 5701(c) of such Code is amended by striking ''(1.06 cents on cigarette papers removed during 2000 or 2001)'' and inserting ''(3.13 cents on cigarette papers removed after December 31, 2007, and before October 1, 2012)''.

(d) CIGARETTE TUBES.—Section 5701(d) of such Code is amended by striking ''(2.13 cents on cigarette tubes removed during 2000 or 2001)'' and inserting ''(6.26 cents on cigarette tubes removed after December 31, 2007, and before October 1, 2012)''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of such Code is amended—

(1) by striking ''(51 cents on snuff removed during 2000 or 2001)'' in paragraph (1) and inserting ''($1.50 on snuff removed after December 31, 2007, and before October 1, 2012)'', and

(2) by striking ''(17 cents on chewing tobacco removed during 2000 or 2001)'' in paragraph (2) and inserting ''(50 cents on chewing tobacco removed after December 31, 2007, and before October 1, 2012)''.

(f) PIPE TOBACCO.—Section 5701(f) of such Code is amended by striking ''(95.67 cents on pipe tobacco removed during 2000 or 2001)'' and inserting ''($2.8126 on pipe tobacco removed after December 31, 2007, and before October 1, 2012)''.

(g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of such Code is amended by striking ''(95.67 cents on roll-your-own tobacco removed during 2000 or 2001)'' and inserting ''($8.8889 on roll-your-own tobacco removed after December 31, 2007, and before October 1, 2012)''.

AMENDMENT NO. 2537

(Purpose: To minimize the erosion of private health coverage)

At the end, add the following:

SEC. ____. DELAY IN EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall not take effect until the day after the date on which the Director of the Congressional Budget Office certifies that this Act and the amendments made by the Act, will not result in a reduction of private health insurance coverage greater than 20 percent.

AMENDMENT NO. 2562

(Purpose: To amend the Internal Revenue Code of 1986 to extend and modify the 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements and to provided a 15-year straight-line cost recovery for certain improvements to retail space)

On page 217, after line 25, insert the following:

SEC. 61__. EXTENSION AND MODIFICATION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS; 15-YEAR STRAIGHT-LINE COST RECOVERY FOR CERTAIN IMPROVEMENTS TO RETAIL SPACE.

(a) EXTENSION OF LEASEHOLD AND RESTAURANT IMPROVEMENTS.—

(1) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) of the Internal Revenue Code of 1986 (relating to 15-year property) are each amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2007.

(b) MODIFICATION OF TREATMENT OF QUALIFIED RESTAURANT PROPERTY AS 15-YEAR PROPERTY FOR PURPOSES OF DEPRECIATION DEDUCTION.—

(1) TREATMENT TO INCLUDE NEW CONSTRUCTION.—Paragraph (7) of section 168(e) of the Internal Revenue Code of 1986 (relating to classification of property) is amended to read as follows:

''(7) QUALIFIED RESTAURANT PROPERTY.—The term 'qualified restaurant property' means any section 1250 property which is a building (or its structural components) or an improvement to such building if more than 50 percent of such building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to any property placed in service after the date of the enactment of this Act, the original use of which begins with the taxpayer after such date.

(c) RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN IMPROVEMENTS TO RETAIL SPACE.—

(1) 15-YEAR RECOVERY PERIOD.—Section 168(e)(3)(E) of the Internal Revenue Code of 1986 (relating to 15-year property) is amended by striking ''and'' at the end of clause (vii), by striking the period at the end of clause (viii) and inserting '', and'', and by adding at the end the following new clause:

''(ix) any qualified retail improvement property placed in service before January 1, 2009.''.

(2) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Section 168(e) of such Code is amended by adding at the end the following new paragraph:

''(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified retail improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and

''(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) IMPROVEMENTS MADE BY OWNER.—In the case of an improvement made by the owner of such improvement, such improvement shall be qualified retail improvement property (if at all) only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

''(C) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefitting a common area, or

''(iv) the internal structural framework of the building.''.

(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) of such Code is amended by adding at the end the following new subparagraph:

''(I) Qualified retail improvement property described in subsection (e)(8).''.

(4) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) of such Code is amended by inserting after the item relating to subparagraph (E)(viii) the following new item:

(E)(ix) ..... 39''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I thank the Senator from Maryland for allowing me to proceed, and I will not be too long.

I ask unanimous consent that I be allowed to proceed as in morning business, to be followed by Senator BOND.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 1927

Mr. MCCONNELL. Mr. President, I understand that S. 1927 is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1267) to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes.

Mr. MCCONNELL. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

Mr. BAUCUS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

Mr. MCCONNELL. Mr. President, yesterday the Director of National Intelligence came to Capitol Hill and implored Congress once again to modernize the Foreign Intelligence Surveillance Act. He was echoing the warnings of the entire intelligence community, which has told us that current law—current law—prevents us from collecting a significant amount of intelligence that could be vital in protecting us from another terrorist attack.

The latest National Intelligence Estimate makes clear that the greatest terrorist threat to the United States is al-Qaida. Their intent to attack us is undiminished since 9/11. They have gained recruits and strength in the Middle East. They continue to adapt and improve their capabilities, and we must continue to adapt and improve our ability to swiftly detect their movements and their plots.

One of the most effective tools we have had in doing this over the last 6 years is our electronic surveillance program. The Foreign Intelligence Surveillance Act gives us the legal framework for monitoring terrorists electronically without impinging on the civil liberties of Americans. But the law is badly out of date.

Since FISA was enacted, sweeping advances in technology have upset the balance that Congress struck in 1978, and the law that was written to protect Americans while ensnaring terrorists must be changed as well.

The targeting of a foreign terrorist overseas should not require a FISA warrant. That was never the intention of the original legislation. Yet this is what the law, as written, currently requires. The intelligence community has told us they are hamstrung by the existing law, and in a significant number of cases, our intelligence professionals are in the unfortunate position of having to obtain court orders to collect foreign intelligence concerning foreign targets located overseas.

The facts here are not in dispute. Our Nation faces an alarming intelligence gap, a situation in which the intelligence community every day is missing—missing—a significant portion of what we should be getting in order to protect the American people here at home. We should not adjourn until we have closed this gap. We must act quickly in a bipartisan manner and let the appropriate committees come back and review FISA and other matters related to the legislation in a more comprehensive manner.

We should not return in September knowing that we have failed in our duty, and we pray that we don't have cause to regret our inaction. Let there be no doubt: If we had the foresight in August of 2001 to enact a law that would have exposed the plot that was being hatched against us then, the vote to approve that law would have been cast unanimously and without hesitation—unanimously and without hesitation. None of us would have shrunk from that duty. Six years later, the duty remains.

There is little we can do in the Senate from day to day that can immediately and decisively improve the security of this country. But by passing a FISA modernization bill that the President can sign before we go home for recess, we will have done just that. We need to act on this legislation now. We should not adjourn until we have closed this gap, until we have fixed this outdated law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank the minority leader because he has brought to the attention of this body a measure of critical importance. Right now, we are missing a very significant portion of the signals and intelligence we could capture on al-Qaida and other terrorist organizations threatening to do harm to the United States. The reason is because the existing Federal Foreign Intelligence Surveillance Act doesn't fit in with today's technology.

The Director of National Intelligence has asked us—begged us—to make these changes. He submitted a proposal to the Intelligence Committee in April, and then he came before our committee in May. He came and briefed as many Members of the Senate who wanted to show up last month, and 42 members did, and they understood the importance.

In my tenure as a member of the Intelligence Committee, I have spent a considerable amount of time looking at issues regarding FISA modernization. Since I became vice chairman, I have worked closely with Chairman ROCKEFELLER to ensure that our oversight of this measure and this program has been comprehensive. We have held numerous hearings. Most of us have gone out and watched how the protections are implemented and where the information is collected at the NSA.

The DNI's proposal came up to us, and in April he warned that the current text of FISA is causing significant intelligence gaps during a period of increased threat. We all know that the threat of al-Qaida is severe now. We cannot afford to go home, to leave this place, and not take off the artificial barriers that prevent NSA from keeping our country safe.

The DNI has now provided us with a bare-bones FISA modernization proposal. It doesn't deal with all of the problems we in the Intelligence Committee must deal with later on in this session. We must do it.

Last night, we had a proposal delivered by Senator ROCKEFELLER that did not come from the members of the Intelligence Committee. It was a counterproposal to provide what he argued was a temporary legislative fix to FISA. Unfortunately, the counterproposal will not close these significant intelligence gaps that the DNI has told us about. Instead, it requires the Government to get a FISA order when a foreign target communicates with a significant number of persons and calls into the United States. That, to me, is going in the wrong direction. We don't need to stop and get a court order to protect the privacy of a terrorist who is making lots of calls into the United States. That is moving in the wrong direction.

Our enemies are not naive. They understand our laws sometimes better than we do. They would realize that all they had to do, if they wanted to cover their tracks while a lengthy FISA court application procedure was done, is make a whole lot of calls to people in the United States to trigger the requirement.

It would be an unnecessary and enormous burden on the intelligence assets and operators. We don't want people who play an essential role in fighting terrorism to spend the bulk of their time processing stacks of FISA applications on foreign targets. We want them to do the intelligence work to keep our country safe.

Well, as a result of the proposal made by Senator ROCKEFELLER, and others, the DNI was able to accommodate a number of these proposals and adopted their proposal for FISA court review of the procedures. They put a 6-month sunset on it. They added the DNI, Director of National Intelligence, to the authorizing process for acquisition of foreign intelligence. This is what is before us. The minority leader has presented it. I am proud to be a cosponsor.

The debate is about whether targeting foreigners overseas should require a FISA order. That was never the intent of the FISA legislation. It was intended solely to protect the fourth amendment rights of persons inside the United States—not foreign targets.

FISA needs to be modernized. Technology has changed. It is now no longer covered. The DNI's approach takes into account the changing technology and has adopted the reasonable suggestions made in the proposal made by Senator ROCKEFELLER, and others.

Congress needs to act on this legislation, please, before we get out of town. Don't leave town leaving the NSA deaf to significant terrorist information that might save our country from attack.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I want to move things along here and set an order of speakers. I ask unanimous consent that Senator MIKULSKI be recognized to speak for 5 minutes; following that, Senator CHAMBLISS be recognized to speak for 5 minutes. Following him, Senator BROWN be allowed to speak for 8 minutes; following him, Senator COBURN, for 10 minutes; following that, Senator WEBB be allowed to speak for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I, too, rise to comment on the FISA situation in which we find ourselves, because we want to be very clear that patriotism, adherence to the Constitution to defend the Nation against all enemies foreign and domestic, is not a partisan issue; that as our distinguished colleague from Missouri has spoken to—and I know the Senator from Georgia will—we are all on the Intelligence Committee, and we know what the real deal is in the sense of a very dangerous time facing our country.

We on this side of the aisle want to assure both our colleagues and the American people that we want to make the reforms in FISA before we go out as intensely as do our colleagues who are speaking tonight. We want to make those reforms so that we, too, give the intelligence community the power to go after and catch the terrorists and to be able to pump for the information they need to protect us, rather than a bureaucracy.

As a member of the Intelligence Committee, I feel it is my first duty to make sure they have the tools they need to protect the Nation. That means not only the financial resources to hire the best people and have the best technology, but it also means they have the legal framework in which to operate. But, indeed, a legal framework is what we need. We believe that in functioning within a legal framework, we are able to bring to bear all of the very important resources that are needed, both from the private sector as well as from the public sector.

I agree with my colleagues that as we come into August, we have a certain level of anxiety. All of us know, as we look back on 2001, that if in fact we could have done something to protect or stop what happened on that terrible day, September 11, we would have done it. We know that right now, this minute, we have another rendezvous with destiny and we will meet that. In meeting that rendezvous, we will arrive at a legal framework that is constitutionally compliant, that will enable the Intelligence Committee to be able to do what it needs, without being shackled by more bureaucratic mandates. There are many proposals. The details of why we would support them or raise a question are better discussed in a more classified forum.

Should the approach be bipartisan? You bet. I have worked with the Senator from Missouri. I know how he brings pragmatism, common sense, and very sound legal analysis to the discussion. This is not about politics. This is about the people and protecting the people we were sworn to protect. So I believe we will be proceeding. I am prepared, if necessary, to cancel my plans. But I believe if we work hard and are inclusive and approach it with common sense, we will focus on what is the end game here, which is to do the right thing to protect us.

Mr. President, I have fought for children's health care for a very long time, going back to my days as a social worker and also as a young House Member. This bill is what we hoped for and dreamed for—those of us who worked in social work and foster care and child abuse—to make sure kids had eyeglasses and hearing aids and so forth. And for all those adolescents who need to discuss things with doctors, this would be an open door. For all those handicapped children, this is what we need.

I salute the chairman and ranking member on this bipartisan solution. We have done this in a way that we can pay for it. At the end of the day, over an additional 3 million children will have health care. I salute my colleagues.

A few months ago, we had a little boy die in Maryland because he didn't have access to dental care. He had an oral infection that spread through his blood. So tomorrow when I vote, I vote for Deamonte, and for all others like him. I support the bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I ask the Senator from Georgia to yield so that I may speak for a few minutes. I am sorry I wasn't on the floor to listen to the speech of the Senator from Kentucky, the Republican leader, dealing with FISA.

Let me say briefly, we got the bill and the rule XIV late this afternoon. Ours is almost completed. We are working on it in my office, and the Speaker has to sign off on some of these things. It could take a little while before we are able to file this.

I so appreciate the Senator from Maryland. She is a woman who takes tremendously difficult jobs as a Senator. She has been a valued member on more than one occasion on the Ethics Committee, doing some of the most difficult work we have had to do on ethics in the entire history of the country. And then as far as her serving on the Intelligence Committee, she has been exemplary. I depend on her for information on what to do. A lot of times these meetings are held, and you need direction as to what we need to do on the Senate floor because what goes on in the Intelligence Committee is all secret. I admire and respect her so much because she helped us get to the point where we are.

We are going to come back with the proposal that we will file, a rule XIV, as the Republicans did theirs. It is meeting the expectations of the American people. One of the things we have going for us with this repair of FISA is Admiral McConnell. We trust this man. He is a man who speaks in a language we understand. He is direct and concise. Because of that, I think we can work something out. I just spoke to the vice chair of the Intelligence Committee, Senator BOND. We talked about the fact that ours will be laid down, and theirs is already laid down. Certainly, we should be able to work something out. We are all trying to obtain the same goal: to be able to protect ourselves from the evil people in the world who are trying to do harm to us as a country and individually and others from around the world.

We are going to proceed in good faith to try to get this done, and hopefully sometime in the next little bit, we will be able to file our legislation and what we call rule XIV so we are matching what the Republicans did this afternoon.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2557 TO AMENDMENT NO. 2530

Mr. BAUCUS. Mr. President, if I may have the indulgence of the Senator from Georgia, I ask unanimous consent that the pending amendment be set aside, and on behalf of Senator SPECTER, I call up amendment No. 2557.

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

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. SPECTER, proposes an amendment numbered 2557 to amendment No. 2530.

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

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to reset the rate of tax under the alternative minimum tax at 24 percent)

On page 217, after line 25, insert the following:

SEC. 61__. REDUCTION IN RATE OF TENTATIVE MINIMUM TAX FOR NONCORPORATE TAXPAYERS.

(a) IN GENERAL.—Clause (i) of section 55(b)(1)(A) of the Internal Revenue Code of

1986 (relating to noncorporate taxpayers) is amended to read as follows:

''(i) IN GENERAL.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is—

''(I) 24 percent of the taxable excess, reduced by

''(II) the alternative minimum tax foreign tax credit for the taxable year.''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 55(b)(1) of such Code is amended by striking clause (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

Mr. BAUCUS. I thank my friend from Georgia. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

FISA MODERNIZATION

Mr. CHAMBLISS. Mr. President, I rise tonight to support the McConnell legislation that has been submitted relative to FISA modernization and say, first, that I associate myself with the remarks of the Senator from Maryland. She has been a huge asset on the Intelligence Committee. She does her homework, she works hard, she studies the issues. She is exactly right. This is not a partisan issue by any means. This is truly an American issue because it is an issue that allows us to continue to protect Americans and allows us to do the best job we possibly can in the intelligence community to ensure we do not suffer another attack on American soil.

Unfortunately, we cannot guarantee that will not happen, but the fact is, we need this updated, even though it is temporary, FISA modernized to allow our intelligence community to gather the type of information from the bad guys who are certainly out there getting up every day and making plans to attack assets of America, whether they are abroad or whether they are assets in the United States.

It is simply necessary that we take advantage of the technology that is available today that was not available at the time the original FISA statute was implemented and passed into law, and that we make sure we are giving our intelligence community all the tools they need to do their job in a very professional manner.

There is a threat out there. The Secretary of the Department of Homeland Security has expressed recently that a threat exists, that he has a gut feeling something may happen. There are a lot of factors timewise and otherwise that make us feel that might be the case. Who knows. We cannot step into the minds of the bad guys who are out there.

I will say one thing about this legislation. It does not invade the privacy of any group except one, and that is the terrorists. We need to invade the privacy of the terrorists. This bill is something that if it had been in place, if the tools had been in place in 2001, who knows whether we could have stopped the attack that took place on September 11. But what we do know is that certain phone calls were made by some of the 9/11 hijackers, and if we had in place a program that we now are operating under, it is very likely that we might have picked up on some of those phone calls.

This legislation, again, gives our intelligence community tools which they can use to gather information only from those people who are making plans to carry out a terrorist attack against the United States or against our allies or in some country where we have assets.

I appreciate the cooperative spirit that, obviously, we are seeing from folks on the other side of the aisle. This is truly one of those times we need to come together in a bipartisan way and, obviously, we are going to make this fix to make sure our intelligence community can do their job in a very professional way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I begin by thanking Chairman BAUCUS for his terrific work on perhaps the most important domestic legislation this year, and that is the Children's Health Insurance Program. I thank the Senator from Pennsylvania also, the Presiding Officer tonight, for his terrific work leading our freshman class on this issue. We know how important it is to the people, whether it is Montana, Pennsylvania, Maryland, Georgia, or any of the States represented here tonight.

The children's health insurance bill meets the most basic need of American families. Nothing should stand in the way of this bill moving forward. Children too often suffer and some die because they do not have access to health care. In a nation as wealthy as ours, that is not just irresponsible, it is immoral.

Today we have the opportunity to do the right thing for American families, for parents, for children. Without health insurance for their children, parents too often face impossible choices—go to the doctor when their child is sick or pay the grocery bill or the electric bill or the rent. These are the choices that families are forced to make—cruel choices.

In 1996, when Congress created the Children's Health Insurance Program, with a Democratic President and a Republican Congress, there were nearly 11 million uninsured children in the United States. In Ohio, my State, there were roughly 305,000 uninsured children. Today, thanks in large part to the Children's Health Insurance Program, those numbers have been reduced substantially—fewer than 9 million nationwide and roughly 236,000 in Ohio.

The Children's Health Insurance Program is directly responsible for covering 6.6 million children across the country and more than 200,000 children in Ohio in Athens, in Ashtabula, in Warren and West Lake, in Marion and Maple Heights. That is good, but it is not good enough. Mr. President, 150,000 low-income children, most of whom have working parents, in Ohio, do not have health insurance. This bill does the right thing on mental health, requiring parity between mental and physical health benefits.

I would like to share a story I heard yesterday that should remind us of the importance of this provision. In 1990, Kitty Burgitt's husband died suddenly, leaving her to care for her 5-year-old daughter and 2-year-old son as a single mother in Canton, OH, a city in the northeast part of my State. Her Social Security survivor benefits were considered too much to qualify for Medicaid. Six years later, Congress created the Children's Health Insurance Program. Kitty immediately enrolled her children in that program.

Given the initial strict income eligibility provisions of the program, Kitty was forced to turn down raises and refuse the additional hours at work that she wanted to work to keep her children enrolled, to keep them insured.

When her daughter was in the eighth grade, she started experiencing mental health problems. Then her daughter became suicidal. The Children's Health Insurance Program covered her treatment, which then was extensive. Imagine what it would have been like for Kitty if she had no way to help her daughter. No parent should ever feel that helpless. No parent should ever be forced to watch powerlessly as her child, or his child, suffers.

Thankfully, because of the Children's Health Insurance Program, Kitty's daughter did receive the treatment she needed. Today her daughter is healthy and happy. As Kitty herself wrote recently:

> Today my daughter is 22, happily married with a beautiful daughter of her own—
>
> Kitty's granddaughter—
>
> and has a good job as a restaurant manager.

If we do our job this week and pass this bill, we will hear more success stories such as this one in the future.

Some of my colleagues raise concern over this bill's income eligibility levels. I believe it is important, however, for each State, with its own unique set of circumstances, to have the flexibility to offer coverage to those it deems in need. The State makes that determination.

In my State of Ohio, for instance, Governor Strickland and the State legislature have taken it upon themselves to raise the eligibility limit for the Children's Health Insurance Program to 300 percent of poverty level. That 300 percent is not living in the lap of luxury. It means a parent still cannot afford health insurance in a job where they are 300 percent of poverty without some help from the Children's Health Insurance Program.

This means little boys, such as Marco Rodriguez, will finally have health insurance. Marco lives in Marion, 20 to 30 miles from where I grew up. He is 9½

years old. His father died last year. His mother works full time. This is Marco's mother. But her job does not offer health insurance. She cannot afford private coverage. Her income is just over 200 percent of poverty, roughly $24,000 a year. She works hard, is raising her child, she is widowed, and she makes $24,000 a year. Of course she cannot afford health insurance on that income. It is not enough to pay for food, rent, and clothing—barely—and private health insurance.

So Marco, like all too many children, has been going without health insurance. What if something happens? One major medical emergency for Marco could mean financial catastrophe for his mother, his family—for both of them.

If we do our job this week, Ohio will be able to cover Marco come January 2008.

Others have voiced concern over the cost of this reauthorization. It was a bipartisan initiative 10 years ago, with a Democratic President and a Republican Congress and an overwhelming number of Democrats, myself included, in the House of Representatives and Senate voting for it. We all agree this program has been a success.

The investment we made in 1996 has proven to be a wise one. And still too many of my friends on the other side of the aisle hesitate. They hesitate about our Nation's children. They say: We like the program, but it is too expensive or, We have other priorities. But this is about priorities. And the questions are pretty simple.

Should Congress provide for billionaire tax breaks or health insurance for our children? Should we provide for billions, literally billions in no-bid contracts in Iraq or health insurance for our children? Should we provide for Medicare privatization and oil company subsidies or health insurance for our children?

It is time for Congress to get its priorities straight. We should pass the Children's Health Insurance Program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 2618 TO AMENDMENT NO. 2530

Mr. WEBB. Mr. President, I ask unanimous consent that the pending amendment be laid aside in order that I might bring up my amendment No. 2618 to the bill.

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

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WEBB] proposes an amendment numbered 2618 to amendment No. 2530.

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

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

The amendment is as follows:

(Purpose: To eliminate the deferral of taxation on certain income of United States shareholders attributable to controlled foreign corporations)

At the end of title VII, insert the following:

SEC. ____. ELIMINATION OF DEFERRAL OF TAXATION OF CERTAIN INCOME OF CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 952 (relating to subpart F income defined) is amended by adding at the end the following new subsection:

''(e) SPECIAL APPLICATION OF SUBPART.—

''(1) IN GENERAL.—For taxable years beginning after December 31, 2007, notwithstanding any other provision of this subpart, the term 'subpart F income' means, in the case of any controlled foreign corporation, the income of such corporation derived from any foreign country.

''(2) APPLICABLE RULES.—Rules similar to the rules under the last sentence of subsection (a) and subsection (d) shall apply to this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after December 31, 2007, and to taxable years of United States shareholders with or within which such taxable years of such corporations end.

Mr. WEBB. Mr. President, I strongly support this bill. As an initial matter, I express my thanks to Senators BAUCUS and GRASSLEY for their hard work on this bipartisan bill which will help provide health insurance to millions of children nationwide and hundreds of thousands of children in my home State of Virginia.

For too long in this country, low-income families have been unable to afford health insurance for their children. Reauthorizing this program helps meet this urgent need. But, unfortunately, this bill does so by singling out one form of conduct, tobacco smoking, and then taxing many of the very same people the program is intended to assist.

Not only are lower income workers more likely to smoke, they spend a greater percentage of their income on tobacco when they do because an estimated half of American smokers come from the same income groups as those families who are eligible for this program. In my view, this amounts to robbing Peter to pay Paul.

Additionally, the very form of conduct that we are supposedly attempting to discourage has become the same form of conduct that we are implicitly hoping will continue to finance this program. I find this logic odd. At some level, I find it counterproductive to the very goals of the legislation that is before us.

And here is another problem. This is a targeted tax on commercial transactions that are disproportionately engaged in by people with lower incomes. At the same time, our country is experiencing a vast accumulation of wealth amongst our highest income earners.

Income disparities in this country are at levels that we have not seen for at least 70 years. Moreover, corporate profits are at an all-time high as a percentage of our national wealth, while wages and salaries on our working people are at an all-time low.

There is, in my view, a better way, a fairer way to pay for this program. That is why I have offered this amendment.

Under the Federal Tax Code, American corporations are allowed to defer payment of American taxes on the profits earned by their overseas subsidiaries. Under current law, taxes on the business income of foreign subsidiaries are not payable until the profits are repatriated back to the American parent corporation and, in reality, this means they are not going to be paid at all.

Companies can defer ever paying taxes in the United States by keeping their income overseas and making money from it indefinitely. The Tax Code, in other words, creates an incentive to move jobs overseas, to not invest in American operations, and also provides a method to shelter overseas profits from fair taxation.

In just one recent example reported by the New York Times, a major biotech corporation—Amgen—with offshore subsidiaries used American tax laws to escape hundreds of millions of dollars in taxes, taxes that should have gone into the American treasury. Although this corporation reported that 80 percent of its billions of dollars of sales occurred in the United States, it paid only 22 percent of American taxes on its profits. This corporation got away with this specifically because of American tax policies, like many other corporations do today.

My amendment would eliminate this deferral provision in the Tax Code. This critical reform would discourage these companies from moving American investments and jobs to foreign tax havens and raise the revenue necessary to expand the Children's Health Insurance Program. This reform also would protect American workers by reversing the consistent flow of American jobs that corporations are outsourcing abroad.

I have been unable at this point to receive an official estimate of the revenues this amendment would raise, but I have consulted multiple credible sources and have no doubt this amendment would raise the new funds needed under the new policy, which are approximately $7 billion a year. These sources include the Joint Committee on Taxation, which estimated last year that deferral would raise $6.4 billion in 2008 and rise to $7.5 billion by 2010. It also includes the President's own budget proposal for fiscal 2008, which estimates that tax expenditures for the deferral of income of this sort would be $12.8 billion in 2008 and rise to $16.7 billion in 2012.

Opponents of this amendment would argue that deferral is needed to avoid corporate exposure to double taxation. However, in my view, that is a disingenuous argument. American corporations investing overseas currently receive a tax credit, a Federal tax credit, for their payment of foreign taxes of

up to 35 percent. My amendment does not affect the availability of this credit and therefore would not result in double taxation, nor does my amendment affect in any way the current provisions regarding allocation of corporate expenses, which are related but separate.

Some opponents might contend this is a new tax. But this is not a new tax. This is a way to reclaim monies that already should have been paid into the National Treasury by companies earning skyrocketing profits. This amendment closes a loophole.

The Children's Health Insurance Program is probably the greatest achievement of our Congress in terms of health care insurance in the past decade. It has provided cost-effective health coverage to more than 137,000 children in Virginia in 2006 and millions of children across the country, reducing the number of uninsured children by one-third. We must, however, further strengthen our investment in children's health coverage. Millions of children remain uninsured. That is why this legislation is important.

I urge my colleagues to seize this opportunity to help children from America's low-income families, but I respectfully argue that we need to do so not with a regressive tax on people who have little ability to pay but, instead, by eliminating a corporate tax provision that would be one small step toward restoring fairness in our society and reinforcing the proper notions of how our Government should operate.

I ask my colleagues to support this amendment.

I yield the floor, and 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 2530 to Calendar No. 58, H.R. 976, the Small Business Tax Relief Act of 2007.

Harry Reid, Max Baucus, Bernard Sanders, Jeff Bingaman, Ted Kennedy, Maria Cantwell, B.A. Mikulski, Barbara Boxer, Daniel K. Inouye, Christopher Dodd, Patty Murray, Benjamin L. Cardin, Barack Obama, Kent Conrad, Dick Durbin, Ken Salazar, Blanche L. Lincoln, Jack Reed.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Calendar No. 58, H.R. 976, the Small Business Tax Relief Act of 2007.

Harry Reid, Max Baucus, Bernard Sanders, Jeff Bingaman, Ted Kennedy, Maria Cantwell, B.A. Mikulski, Barbara Boxer, Daniel K. Inouye, Christopher J. Dodd, Patty Murray, Byron L. Dorgan, Barack Obama, Kent Conrad, Dick Durbin, Ken Salazar, Blanche L. Lincoln, Jack Reed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2537

Mr. KYL. Mr. President, I know the majority leader is going to be coming here shortly to conclude today's activities. Prior to that, let me comment a little bit on an amendment that has been offered on my behalf by Senator GRASSLEY, amendment No. 2537. It is an amendment which deals with the so-called crowd-out effect of the Finance Committee bill.

The crowd-out effect has to do with the people who are covered by private insurance today who would be crowded out of private insurance and going onto the SCHIP program, the Government program under the bill. The problem is that under the bill, all of the newly eligible people under the program are replaced literally one for one from private insurance to the Government program. In other words, a child or a family who is on private insurance today, for every one of those children or families who is on private insurance, when the Government program is expanded, they will leave the private insurance market. It is a one-for-one transfer. We should not be offering more Government benefits for insurance to cover children or anyone else when the effect of that is for every new person covered to have somebody leaving the private insurance market. The object here is to cover people with insurance, to allow them to have access to good care through insurance. We do not solve any problem at all when we take somebody who already has insurance and bring them into a new program.

The CBO estimates that between 25 percent and 50 percent of all the eligible SCHIP recipients are crowded out of the private insurance market. In other words, for every 100 people on private insurance today, between 25 and 50 of them will leave private insurance to go to the SCHIP program as it is expanded. As I said, for the newly eligible, it is a one-for-one transfer. Why is that a good idea?

This amendment which I have offered says that if the effect is more than 20 percent in the crowd-out, that is to say that through this program, more than 20 percent of the people who are covered leave private insurance to be covered by this new program, then it does not go into effect. But it does go into effect if the so-called crowd-out effect is less than 20 percent.

For the life of me, I don't know why we would spend an additional $35 billion to replace people who are already covered. That does not represent a sound and efficient use of taxpayer dollars.

Let me make it clear that I support the reauthorization of SCHIP. I have supported the Republican alternative. But I believe the Finance Committee bill represents not just a reauthorization but an expansion of the program which, as the chairman himself acknowledged, is another step toward universal coverage.

We do not need to be taking people off private insurance to enroll them into this program. The problem, and I will be very brief, is that the people who are added are people generally of higher income, and we are adding a group of adults as well. Those are people who generally are more covered by insurance today. So it is logical that, as CBO says, for every one person who is covered today, one person leaves that coverage to go to the SCHIP program under the committee bill. It is estimated that there will be about 600,000 in this category. In fact, CBO shows that a one-for-one replacement means that for 600,000 newly insured individuals, 600,000 individuals go off their private coverage.

As I said, that simply makes no sense. It seems to me what we should be doing instead is providing coverage for people who do not have private insurance coverage. That would be a much better use of taxpayer dollars.

To conclude the point, there are two reasons why this is happening that are not problems with the alternative, the Republican alternative that was voted on that failed. But they are problems with the Finance Committee bill. The first one is that the Finance Committee bill allows States to enroll children from higher income families, the very ones who have greater insurance coverage today. We have already talked about the New Jersey experience, for example, and the New York experience, in that regard—people at 350 percent to 400 percent of the poverty level, between $60,000 and $80,000 in income for a family of four. Those people, by and large, are already covered by insurance. Not only is there no reason to provide them SCHIP coverage, but we are simply crowding people out of the private sector into this program.

If my colleagues want to avoid the crowding-out effect, it seems to me we

should be focusing on the truly needy, the low-income children, not children from higher income families.

Second, the Finance Committee bill allows States with existing waivers to continue enrolling parents. CBO stated:

No studies have estimated the extent to which SCHIP reduces private coverage among parents so the available estimates probably underestimate the total reduction in private coverage.

According to CBO's own numbers, this is a big problem. It seems to me we should be focused on solving that problem rather than simply adding to the problem as the Finance Committee does. If we are serious about minimizing the erosion of private coverage, then we should direct SCHIP funds to low-income children and not add adults; as the Budget Committee chairman said not too long ago, there is no ''A'' in SCHIP. Otherwise, CBO estimates that over 2 million individuals will go off private coverage under the Finance Committee bill.

Let me state that again: 2 million individuals who currently have private insurance will go off that private insurance onto this new program or onto the program that is added to by the Finance Committee bill. Why would we do that? It doesn't make sense.

My amendment will be dealt with tomorrow. We will have a chance to further debate it and, as I said, all it provides essentially is if more than 20 percent of the people who are enrolled come from the private insurance sector already, then the program would be in abeyance until that number is reduced below 20 percent.

I also note there were several articles recently written that I think describe the general problem as well as this specific problem. There are three in particular I would like to have printed in the RECORD at the conclusion of my remarks.

I will ask unanimous consent that the following pieces be printed in the RECORD. One is a piece by John Goodman called ''Insurance Folly,'' in the Wall Street Journal; another is a Wall Street Journal opinion in the ''Review & Outlook'' section, dated July 30, called ''The Newest Entitlement,'' and third is a column in my hometown newspaper, the Arizona Republic, an editorial, August 1, by Bob Robb, which I think correctly notes the problem I have discussed and issues with the Finance Committee bill.

I ask unanimous consent these three published items be printed in the RECORD.

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

[From the Wall Street Journal]

INSURANCE FOLLY

(By John C. Goodman)

The State Children's Health Insurance Program (Schip) was originally a Republician program to provide health insurance to children in near-poor families who did not qualify for Medicaid. Democrats now want to expand Schip to children of the middle class.

Their efforts to do so are rightly being resisted by the White House, but Senate Finance Committee Republicans have already caved on an unwise compromise to make more people eligible for Schip.

On the surface, congressional Democrats appear to be rescuing children from the scourge of uninsurance. The reality is quite different. If they get their way, millions of children will have less access to health care than they do today, and the same will surprisingly be true for many low-income seniors.

Studies by MIT economist Jonathan Gruber show that public insurance substitutes for private insurance and the crowd-out rates is high. In general, for every extra dollar spent on Medicaid, private insurance contracts by 50 cents to 75 cents. For Schip, depending on how it is implemented, private insurance could contract by about 60 cents.

These findings make sense. Why pay for something if the government offers it for free? Under congressional proposals to expand Schip, the crowd out would likely be much worse. The reason: Almost all the newly eligible beneficiaries already have insurance.

The Senate bill would expand the eligibility for coverage under Schip to families with incomes 300% above the federal poverty level ($62,000), from its present ceiling, 200% above the poverty level. House Democrats want to push coverage to 400% ($83,000 annual income).

Yet almost eight of every 10 children whose parents earn from 200%–300% more than the poverty level already have private health-care coverage, according to the Congressional Budget office (CBO). At incomes between 300% and 400% more than poverty, nine of every 10 children are already insured.

What about the eight to nine million children currently uninsured? Nearly 75 percent of them are already eligible for Medicaid or Schip, according to the CBO. So the main result of the Democrats' proposal to expand Schip will be to shift middle-class children from private to public plans.

Why is that bad? One reason is that most Schip programs pay doctors at Medicaid rates—rates so low that Medicaid patients are having increasing difficulty getting access to health care. Anecdotal evidence suggests that U.S. Medicaid patients already must wait as long for specialist care and hospital surgery as in Canada.

Many doctors won't see Medicaid patients. Among those that do, many will not accept new patients. As a result, children who lose private coverage and enroll in Schip are likely to get less care, not more.

There is also the issue of who exactly will be covered. Republicans want to restrict Schip to children. The Democrats want adults covered as well. Even under the current system, children's health insurance is increasingly a ruse to cover adults. Minnesota spends 61% of Schip funds on adults. Wisconsin spends 75%.

Seniors will suffer from Schip expansion too. When millions shift from private to public coverage, not much happens to the overall rate of uninsurance. But the government's cost soars. Where's the money to come from? One idea popular with some House Democrats is to reduce federal payments to Medicare Advantage plans. These plans provide comprehensive coverage to low-income seniors who can't afford supplemental insurance to fill all the gaps in Medicare. One in five seniors has enrolled in these plans and one in four of those is a minority. In the House of Representatives, health care for this group is a great risk.

The proposal to expand Schip comes at a time when health-care spending already poses a serious threat to the federal budget. The Medicare trustees tell us that the program's unfunded liability is six times that of Social Security. The CBO predicts that on the current course income tax rates paid by the middle class will reach 66% by midcentury and the top marginal rate will reach 92%.

So what do congressional Democrats plan to do about this problem? Ignore it.

A key provision of the 2003 Medicare Modernization Act says that when Medicare's finances deteriorate to a certain level (that level is already reached), the president must propose an appropriate reform and Congress must fast-track the proposal. Yet one senior Democratic legislator—as yet unidentified—wants the Schip bill to repeal that provision.

In a way, repeal makes a certain sense. If the ship is going down anyway, why spoil the fun?

[From the Wall Street Journal, July 30, 2007]

THE NEWEST ENTITLEMENT

The State Children's Health Insurance Program sounds like the epitome of good government: Who could be against health care for children? The answer is anyone who worries about one more middle-class taxpayer entitlement and a further slide to a government takeover of health care. Yet Schip is sailing toward a major expansion with almost no media scrutiny, and with Republicans in Congress running for cover.

Schip was enacted in 1997 to help insure children from working-poor families who make too much to qualify for Medicaid. In the intervening years, the program reduced the rate of uninsured kids by about 25% but has also grown to cover the middle class and even many adults—and it gets bigger every year. Schip expires in September without reauthorization, and Congressional Democrats want to enlarge its $35 billion budget by at least $60 billion over five years.

State Governors from both parties are also leading the charge—and for their own self-interested reasons. Schip money is delivered as a block grant, which the states match while designing their own insurance programs. All cost overruns, however, are billed to the federal government, which is on the hook for about 70% of Schip's ''matching rate.'' This offers incentives for state politicians to make generous promises and shift the costs to the feds, or to toy around with costly universal health-care experiments. And since the states only get 57 cents on the dollar for Medicaid, they are working hard to transfer those recipients to Schip.

This self-interest explains a recent letter from the National Governors Association demanding ''urgent action'' on Schip, which got lots of favorable play in the press. Yet these are the same Governors who have been moaning for years about rising entitlement burdens, which is what Schip will be soon enough. Particularly egregious was the signature on the letter of Minnesota Governor Tim Pawlenty, a Republican who regards himself a conservative health-care maven and should know better.

This ''bipartisan'' cover is serving Democrats in Congress, who want to liberalize Schip eligibility as part of their march to national health care. The Senate Finance Committee has voted 17–4 to increase Schip spending to at least $112 billion over 10 years. Not only does it use a budget trick to hide a payment hole of at least $30 billion, it proposes to offset the increase by bumping up the cigarette tax by 61 cents to $1 pack.

House Democrats are putting the finishing touches on their own plan, making the cigarette tax somewhat lower to win over tobacco state members. Instead, the House is proposing to steal nearly $50 billion from Medicare Advantage, the innovative attempt

to bring private competition to senior health care.

Michigan's John Dingell explains that ''these are not cuts'' but ''reductions in completely unjustified overpayments''—which will come as news to insurers that offered coverage plans based on certain funding expectations. The ''overpayments'' he's referring to were passed expressly as an incentive for companies to offer Medicare Advantage in rural areas with traditionally fewer insurance options—and are intended to be phased out over time. Democrats apparently want to starve any private option for Medicare.

In any case, the actual costs of Schip will overwhelm these financing gimmicks. Like all government insurance, Schip is ''covering'' more children by displacing private insurance. According to the Congressional Budget Office, for every 100 children who are enrolled in the proposed Schip expansion, there will be a corresponding reduction in private insurance for between 25 and 50 children. Although there is a net increase in coverage, it comes by eroding the private system.

This crowd-out effect is magnified moving up the income scale. In 2005, 77% of children between 200% and 300% of the poverty level already had private insurance, which is where the Senate compromise wants to move Schip participation. New York State is moving to 400% of poverty, or some $82,000 in annual income. All of this betrays the fact that the real political objective of Schip is more government control—HillaryCare on the installment plan.

We'd have thought Capitol Hill Republicans would understand all this, especially with the White House vowing to veto any big Schip expansion. But we hear the GOP lacks the Senate votes for a filibuster and perhaps even to sustain a veto. GOP Senators Mitch McConnell and Jon Kyl are backing an alternative to account for population growth and reach the remaining 689,000 uninsured children that Schip was intended to help. Republicans would be wise to support this version, or they'll take one more step to returning to their historic minority party status as tax collectors for the welfare state.

[From the Arizona Republic, Aug. 1, 2007]

DEM HEALTH PLAN A BURDEN ON POOR

(By Bob Robb)

The reauthorization of the State Children's Health Insurance Program illustrates the difficulty of having a sensible policy discussion in the context of American politics, as currently practiced.

According to congressional Democrats, opposition to their reauthorization proposals means support for allowing low-income children to go without health care.

According to Republicans, the Democrats are proposing socialized medicine on the installment plan.

A sensible policy discussion begins with what the debate isn't about: health insurance coverage for low-income children.

SCHIP was intended to provide federal subsidies to insure children up to 200 percent of the federal poverty level, or a family income of about $40,000 a year. The program expires this year and needs to be reauthorized.

No one opposes reauthorization for its intended purpose. The Bush administration has proposed reauthorization for this targeted population with an extra $5 billion in funding over the next five years, over the current base of $25 billion.

The problem is that SCHIP has expanded beyond its original scope, as so often happens with federal programs. In the early years, many states couldn't use all their SCHIP money, so the feds permitted excess funds to be used by other states to extend coverage to children beyond 200 percent of the poverty level and even adults.

In Arizona, the SCHIP plan is called KidsCare. A Government Accountability Office study found, however, that 56 percent of the people enrolled in ''KidsCare'' were actually adults.

Fifteen states now provide SCHIP coverage for children above 200 percent of the federal poverty level, and 14 states cover adults.

Congressional Democrats propose not only to fund these existing expanded programs but provide enough funding for other states to substantially expand eligibility, as well. In all, Democrats are proposing to more than double SCHIP funding, allowing universal coverage up to 300 percent of the federal poverty level, as Gov. Janet Napolitano has proposed for Arizona.

That would provide coverage up to a family income of about $60,000 a year. Since the median family income in the United States is just over $46,000, this reaches well into the middle class.

Here, a confusion surfaces between the issues of universal access and federal subsidies. There are a lot of middle-class American families that have difficulty obtaining health-insurance coverage. Every state, however, can provide universal access by allowing buy-ins to its Medicaid program.

The question SCHIP reauthorization poses is whether the federal government should be subsidizing the health insurance of middle-class families. There doesn't seem to be any justification for it, particularly funded the way congressional Democrats are proposing.

To pay for the SCHIP expansion, Democrats are proposing to raise tobacco taxes by up to 61 cents a pack.

Tobacco taxes are highly regressive. So, basically, Democrats are proposing to tax the poor to pay for the health care of the middle class.

Tobacco taxes are also highly uncertain. Health-care advocates like them because the evidence is that they do reduce consumption. However, states and the federal government have already loaded up various programs, many involving health care and children, on their backs. The odds are very strong that tobacco taxes will not produce the revenues being obligated.

Now, Republicans are making these points. But they also are employing a scare tactic of their own, that Democratic proposals are basically socialized medicine on the installment plan.

However, government programs to provide subsidized access to what is still a private system of health-care providers are very distinct from European-style national health-care systems. Moreover, federal tax policy also heavily subsidizes private, employer-provided health insurance. So, this is not a clean choice between public and private approaches.

At the end of the rhetoric, however, congressional Democrats aren't proposing to reauthorize a program to insure low-income children. Instead, they are proposing a massive expansion of subsidized health care to middle-class families, funded by a large increase in heavily regressive tobacco taxes.

That's an unwise, unfair and fiscally risky scheme.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, we are going to close for the night. I do wish to make a couple references to my friend from Arizona on this issue. I know he will be offering his amendment tomorrow. We will discuss and debate it more. But I have to say we have been hearing a lot of these arguments all week about crowd-out. I would say, respectfully, a lot of Americans feel crowded out right now because they have no health insurance. It is a terrible crisis in the life of too many Americans. We can debate this, and I think the numbers show there is a lot more crowd-out in Medicare Part D, and that was voted overwhelmingly by the last Congress.

I think there is still a lot of debate to go on this, but I have to say there are still some people on the other side of the aisle who have been debating different points of this legislation all week—but they have their insurance. They are called Senators and their families. They have insurance. I do, the Presiding Officer does, the Senator from Arizona has insurance as a Member of the Senate. I am tired of some of the arguments we have heard. I do not attribute them to this Senator, but too often arguments have been made all during this week as a way to block this legislation from going forward. I think it is about time we got to a vote.

Too often, in the last couple days, all we have heard are ways to slow this down, to impede the progress. We have heard misinformation about poverty level numbers, that people above 300 percent of poverty are getting children's health insurance right now. That is not true under this program.

I think we will have more time to debate this, but we have seen a lot of crowding out already. The American people have had to suffer. I think it is a question worthy of debate. But I hope when all the debating is over, all the speeches and all the debates on both sides lead to what the American people expect from this legislation, which is that we cover 3.2 million more American children. That is the question before the Senate. We are either going to do that or not.

Unfortunately, there are some people here who want to agree with the President. If the President's proposal on children's health insurance—make no mistake; if we rubberstamp the President, 1.4 million American children will lose their health insurance. That is the choice. That is the choice for people on both sides of the aisle.

I am pleased that in the Finance Committee we had consensus, a 17 to 4 vote. The choice is very clear: Support the President's proposal, 1.4 million kids lose their coverage; support the bipartisan children's health insurance initiative, 3.2 million children more than the 6.6 are covered. That is the way to go for America.

We can have a debate tomorrow about a couple of points. But this debate is going to end this week, and we better leave this town having supported 3.2 million American children getting their health insurance.

Mr. SPECTER. Mr. President, I voted against Senate amendment 2538 to the State Children's Health Insurance Program reauthorization because of the critical need to provide health insurance to 3.3 million additional children

under this program. This vote should not be misconstrued as a vote against National Institutes of Health, NIH, funding but as recognizing the need to provide health insurance to children.

This amendment would transfer the additional $35 billion for children's health insurance into a fund for NIH to increase medical research. As ranking member and chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, I have ardently supported doubling funding for NIH. The fiscal year 2008 Senate Labor, Health and Human Services, and Education appropriations bill provides $29.9 billion for NIH.

While I support an increase in NIH funding, it cannot be at the expense of providing much needed health care to America's children.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

MORNING BUSINESS

Mr. CASEY. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

LIEUTENANT GENERAL ROBERT ALLEN BREITWEISER

Mr. STEVENS. Mr. President, I missed the 10:30 a.m. vote today because I was at Arlington Cemetery for the interment services for LTG Robert Allen Breitweiser. Lieutenant General Breitweiser was one of the commanding officers of the Fourteenth Air Force when I served in the China-Burma-India theater, and he turned into a good friend when he was assigned to the Alaskan North American Air Defense Command from 1967 to 1969. It was also an occasion for me because Lieutenant General Breitweiser's assistant was Tony Langhorn Motley, who, along with me, survived the airplane crash in which my wife and four others were killed in 1978.

Mr. President, I ask unanimous consent that Lieutenant General Breitweiser's full biography be printed in the RECORD.

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

LIEUTENANT GENERAL ROBERT ALLEN BREITWEISER

Lt. Gen. Robert Allen Breitweiser is commander in chief, Alaskan Command, and commander, Alaskan North American Air Defense Command Region.

General Breitweiser was born in St. Joseph, Mo., in 1916. He graduated from South Denver High School in Denver, Colo., in 1932 and attended the Colorado School of Mines at Golden, Colo., for two years where he majored in Petroleum Engineering. He obtained an appointment to the U.S. Military Academy in 1934 and received a bachelor of science degree in military science and engineering, ranking third in a class of 301.

The general completed primary and advanced flying schools at Randolph and Kelly fields, Texas, in August 1939. He remained at the Advanced Flying School as an instructor until he went to Maxwell Field, Ala., as training group operations officer. He was designated commandant of the Contract Primary Flying School at Bennettsville, S.C. in August 1941. The following February he was assigned to Headquarters, Southeast Training Center, Maxwell Field, Ala.

Transferred to the China-Burma-India Theater in August 1943, General Breitweiser served with the Fourteenth Air Force and the 68th Composite Wing. While with the Fourteenth Air Force he served as General Chennault's personal representative to General Wedemeyer, the China Theater commander. During his duty tour in China, General Breitweiser flew 120 combat hours on 22 combat missions, accounting for numerous enemy trucks and river craft destroyed, plus one 6,000-ton freighter.

Returning to the United States in July 1945, he was appointed deputy chief and later, chief of the Requirements and Resources Branch, Military Personnel Division of Army Air Force Headquarters, Washington, D.C. In August 1947, General Breitweiser was transferred to Ramey Air Force Base, Puerto Rico, and served as assistant executive officer, 24th Composite Wing. He was appointed commander of the base in July 1948, and served in that capacity until May 1949.

After graduating from the Air War College at Maxwell Air Force Base, Ala., in 1950, General Breitweiser became executive officer to the assistant secretary of the Air Force for management in Washington, D.C. He served in that position until November 1951, when he was appointed vice commander of the 34th Air Division (Defense), Kirtland Air Force Base, N.M.

Transferred to Ent Air Force Base, Colorado Springs, Colo., in May 1952, he was named assistant deputy chief of staff for operations for the Air Defense Command.

In July 1954, the general returned to Washington, D.C., as a student in the National War College. Upon his graduation in June 1955, he was assigned as special assistant to the deputy director for estimates, Directorate of Intelligence, Headquarters, U.S. Air Force, and became chief of the policy and management group the following February. In June 1956, he was named deputy director of estimates, office of the assistant chief of staff, intelligence, U.S. Air Force.

In February 1957, General Breitweiser was designated the director for intelligence, Joint Chiefs of Staff, Washington, D.C.

In July 1961, General Breitweiser became assistant chief of staff, intelligence, Headquarters U.S. Air Force, and in September 1963 he assumed command of the U.S. Air Force Southern Command in Panama, Canal Zone. In August 1966, he became vice commander, Military Airlift Command.

Among the general's awards and decorations are the Distinguished Service Medal, Legion of Merit, Bronze Star Medal, Air Medal, Army Commendation Medal with oak leaf cluster, American Defense Service Medal, American Campaign Medal, Asiatic-Pacific Campaign Medal, World War II Victory Medal, National Defense Service Medal with bronze star, Air Force Longevity Service Award with silver and two bronze oak leaf clusters, Order of Yunhui (Special Breast) of China, Friendship Medal with Citation (Argentina), Royal Order of the Sword (Grade of Knight Commander)—Sweden, National Order of the Condor of the Andes (Grade of Commander—Certificate of Honor)—Bolivia, Grand Star of Military Merit (Chile), Order of Aeronautical Merit (Grade of Great Officer)—Brazil. He is rated a command pilot.

CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, section 301 of S. Con. Res. 21, the 2008 budget resolution, permits the chairman of the Senate Budget Committee to revise the allocations, aggregates, and other appropriate levels for legislation that reauthorizes the State Children's Health Insurance Program, SCHIP. On July 30, 2007, I filed revisions to S. Con. Res. 21 pursuant to section 301 for Senate amendment No. 2530, which Senator BAUCUS offered as a substitute to H.R. 976.

I find that Senate amendment No. 2602, as modified, offered by Senator KERRY to Senate amendment No. 2530 satisfies the conditions of the deficit-neutral reserve fund for SCHIP legislation. Therefore, pursuant to section 301, I am further adjusting the aggregates in the 2008 budget resolution, as well as the allocation provided to the Senate Finance Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 21 be printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008.—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In billions of dollars]

Section 101:	
(1)(A) Federal Revenues:	
FY 2007	1,900.340
FY 2008	2,032.346
FY 2009	2,136.133
FY 2010	2,191.807
FY 2011	2,362.185
FY 2012	2,494.778
(1)(B) Change in Federal Revenues:	
FY 2007	−4.366
FY 2008	−18.450
FY 2009	29.207
FY 2010	28.086
FY 2011	−32.365
FY 2012	−102.318
(2) New Budget Authority:	
FY 2007	2,376.360
FY 2008	2,503.590
FY 2009	2,525.926
FY 2010	2,579.993
FY 2011	2,697.660
FY 2012	2,734.343
(3) Budget Outlays:	
FY 2007	2,299.752
FY 2008	2,470.680
FY 2009	2,572.427
FY 2010	2,610.470
FY 2011	2,705.388
FY 2012	2,718.644