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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, who desires truth in the inward parts, keep our lawmakers in Your care. As they dedicate their talents to the Nation's well-being, make our Senators faithful to each challenging duty, loyal to every high claim, and responsive to the human needs of this suffering Earth. Set a seal upon their lips that no thoughtless words shall sting or harm another. Strengthen them to meet this day's waiting tasks with kindness and good will. Lord, give them strength of will, steadiness of purpose, and power to do good for the glory of Your Name.

We pray this in the Name that is above every name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 14, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

MEASURES PLACED ON THE CALENDAR—S. 2633, S. 2634, S. 2636

Mr. REID. Mr. President, there are three bills at the desk due for their second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bills by title for the second time.

The legislative clerk read as follows:

A bill (S. 2633) to provide for the safe redeployment of United States troops from Iraq.

A bill (S. 2634) to require a report setting forth the global strategy of the United States to combat and defeat al Qaeda and its affiliates.

A bill (S. 2636) to provide needed housing reform.

Mr. REID. Mr. President, I object to any further proceedings with respect to these bills, and I object en bloc.

The ACTING PRESIDENT pro tempore. Objection is heard. The bills will be placed on the calendar.

SCHEDULE

Mr. REID. Mr. President, following my remarks and any the Republican leader wishes to make, we will resume consideration of the Indian Health Care Improvement Act. Senator DORGAN and Senator MURKOWSKI are here. I believe this is our fourth day. Someone told me yesterday: But they were short days. The only reason they were short is because nobody has been here to offer any amendments. They would have been longer days, as I indicated last night.

I hope people will come and offer amendments. That is what we need to do. We need to move through this legislation. We have been told that Members who have amendments are waiting to offer them. I hope they will do that. We are going to finish the bill this week. We have a break coming next week. We really would like to get the work done. We could finish it today. I hope we can do so.

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

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

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

INDIAN HEALTH CARE IMPROVEMENT ACT AMENDMENTS OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1200, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1200) to amend the Indian Health Care Improvement Act to revise and extend that Act.

Pending:

Bingaman/Thune amendment No. 3894 (to amendment No. 3899), to amend title XVIII of the Social Security Act to provide for a limitation on the charges for contract health services provided to Indians by Medicare providers.

Vitter amendment No. 3896 (to amendment No. 3899), to modify a section relating to limitation on use of funds appropriated to the Service.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Brownback amendment No. 3893 (to amendment No. 3899), to acknowledge a long history of official depredations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native peoples on behalf of the United States.

Dorgan amendment No. 3899, in the nature of a substitute.

Sanders amendment No. 3900 (to amendment No. 3899), to provide for payments under subsections (a) through (e) of section 2604 of the Low-Income Home Energy Assistance Act of 1981.

Gregg amendment No. 4022 (to amendment No. 3900), to provide funding for the Low Income Home Energy Assistance Program in a fiscally responsible manner.

Barrasso amendment No. 3898 (to amendment No. 3899), to require the Comptroller General to report on the effectiveness of coordination of health care services provided to Indians using Federal, State, local, and tribal funds.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

2-YEAR BUDGET PROCESS

Mr. SESSIONS. Mr. President, the congressional budget process, which we will begin again soon, is clearly broken. Since fiscal year 1980, only three times has Congress enacted all its appropriations bills by the start of the next fiscal year, which is October 1. During that same time, 138 continuing resolutions have been needed to keep the Government running. In other words, if Congress does not appropriate money, it cannot be spent by the executive branch. It cannot be spent by the Government, period. So when we do not pass an appropriations bill to fund the Department of Defense or the Department of Housing and Urban Development, they cannot operate. They shut down. As a result, we come through with continuing resolutions to allow funding to continue at the previous year's level while we debate and argue over the appropriate appropriations for that next fiscal year.

Repeatedly, we have been late. On average, there have been 4.8 continuing resolutions each fiscal year. On average, we have been almost 3 months late passing the appropriations bills, putting us well into the next fiscal year. For fiscal year 1996, 10 years ago, the final appropriations bill was signed almost 7 months late.

Over the past 13 budget cycles, Congress has passed 10 omnibus spending bills. These omnibus bills occur when, instead of passing each of the 12 appropriations bills separately, as we are set up and plan to do, they cannot pass them individually. Because they are so far behind, all the bills are cobbled together in an omnibus bill and moved at one time, which creates so much momentum that it is difficult to stop a bill such as that. It is certainly almost impossible to read and know what is in it. On average, these spending packages have combined 7.6 regular appropriations bills. So the average omnibus bill is 7.6 of the 12 appropriations bills piled all together in 1 bill and passed, basically rammed through the Senate and the House.

Last year, Congress enacted a $555 billion, 1,600-page omnibus package that combined 11 of the 12 required appropriations bills in 1. It was passed in late December, not long before Christmas, when people were anxious to go home. I am sure that is part of the plan. It all moved forward. Mr. President, 1,600 pages—it is unlikely many Members of this Senate read it. Basically, what they would do is send out their staff to determine if something they especially cared about was in it, and if what they wanted was in it, they would vote for the bill. That is the way things have gone around here. It is not a good policy. The package we passed last December was the largest omnibus bill since 1988, when we enacted a $598 billion package that included all 13 bills.

Finally, this broken budget process has resulted in almost $1.7 trillion in deficit spending over the past 13 budget cycles.

There is no single cure, I will certainly admit, for all of what ails Congress and the way Congress spends the people's money. However, a biennial, 2-year budget, 2-year appropriations would be, I am convinced and have been for quite a number of years, a tremendous step in the right direction. It is a good-government reform. I wish to talk about biennial budgeting a bit.

Biennial budgeting has been supported by the last four Presidents. It is a very simple concept. Under current budget law, Congress must pass the twelve 1-year appropriations bills each year to fund the Federal Government. With biennial budgeting, twelve 2-year appropriations bills would be enacted instead of 1-year bills. A change from a 1-year to 2-year budget cycle would have many great benefits.

I emphasize, this is not a partisan matter. This is a matter that I believe will strengthen the Congress and help us increase some of those very poor ratings we have with the American people.

A change from a 1-year to 2-year budget would deal with this problem that is a reality for us: that under the current system, the budget process, the appropriations process is never-ending. We should have completed this process last year before October 1, the start of the new fiscal year, the appropriations funding for the next fiscal year. We did not get that done until late December. Now we are going to be starting soon trying another series of 12 appropriations bills to try to pass them before October 1.

Last year, it took 325 days from the release of the President's budget until the appropriations process was completed on December 26. Now, only 40 days later, the process has begun again with the submission of the President's new budget on February 5.

By limiting budget decisions to every other year, Congress would have considerably more time to spend passing critical legislation. Whether it be immigration reform, which we need to do, tax cuts, or legislation addressing our Nation's housing problems, Congress could focus more on important legislative matters rather than just always every year backed up, jammed up with appropriations debates, arguing over pork and earmarks, among others.

Some will argue that 2-year budgeting would increase the need for enacting supplemental spending. They say we will have more supplemental emergency spending. As such, we will not save a lot of time, and it still will not be a healthy process.

I ask this: How much more supplemental emergency spending can Congress do?

Over the last 10 budget cycles, even though we are passing regular appropriations bills every single year, Congress has enacted at least 25 supplemental emergency appropriations packages. These packages have approved almost $884 billion in additional emergency spending. That is a shocking number.

But I will add this. When someone does bring up an emergency spending bill—and there may be a number of times that it is quite legitimate—and asks that it be brought up and spent above the budget—and that is what emergency spending does; we approve a budget, we should stay within the budget—we pass an emergency bill and it busts the budget. It goes above the budget. We say it is emergency spending that is so important that we don't adhere to the budget and we are going to spend the money anyway. Of course, all of that goes straight to the debt, since we are already in deficit. Any additional spending over our budget is even more monies that go to our debt. But it takes 60 votes, at least. A person is able to come to the floor and object and create a discussion and demand a supermajority of 60 votes to have emergency spending. I think that in itself should deter some frivolous use of emergency spending, I really do.

I think we would be better off, even though I am sure we will have emergency spending packages with a 2-year budget, because we certainly have had them even with a 1-year budget cycle. I do think the taxpayers won't be defenseless when those emergency bills come up.

Another big thing. All of us in the Congress, and I think all of us in the Senate, know in our hearts, know in

the deepest part of our being, that we are not doing a good job of oversight over this massive Government we are supposed to be managing. We don't do a good job of oversight. One reason we don't do oversight in an effective way is because we have to pass the funding bills. We are always arguing over how much should be spent on this or that program, how much should be spent on this or that pet project, and we spend our time doing that and not going out and looking at agencies and departments with a fresh view.

The Office of Management and Budget has made a long list of agencies that are poorly performing, that they question the legitimacy of. If we would focus on that effectively, I think we could do a much better job.

Also, I would suggest that with a 2-year budget, Federal agencies could focus more on their core missions. The Department of Defense, for example, spends untold hours preparing their budget every year, and it creates a lot of uncertainty because they are never sure whether this or that program will be continued. It causes quite a bit of stress and uncertainty. Agencies are spending thousands of hours on their annual budget process.

Constituent groups and organizations could save a lot of money. They come up every year. We see them. They are some of the best people we know, and those people come up every year. They wouldn't have to come up but every 2 years with biennial budgeting. Save some money for those agencies and departments that are worried about their budgets and maybe even save our constituents a little money on air travel.

Finally, a 2-year budget would create a more stable system of government because Congress has proven it cannot complete its budget process each year. It can't do it. Funding delays would surely occur less often and less frequently with a 2-year budget, and the Federal agencies could function more effectively.

Process often does drive policy. The current budget process, the current appropriations process, we know, is not working. It is an embarrassment to us. It embarrasses us every year, not just because the Democrats failed last year in their first year in the majority, but because Republicans failed too, consistently, to pass budgets in an effective way. It is a bipartisan problem. We need to look no further than the $400 billion deficit projected for this year, or our Nation's $9 trillion debt to know we are not being effective in managing the taxpayers' money.

By itself, a 2-year budget will not end the profligate spending of Congress, that is for sure. But a 2-year budget cycle would be a huge improvement. I have no doubt about it. Twenty-one States currently operate with a 2-year budget cycle. I think it is time for Congress to do the same.

When I was working on this the last several years, when the Republicans had a majority in the Senate, I felt as though there might be a slight advantage to the majority party because the majority party has an agenda. They have items they feel obligated to effectively promote. But they are not able to do it oftentimes because all the time on the floor of the Senate is spent on trying to pass appropriations bills. So whether it helps the majority or the minority party, I am not sure, but it will help the taxpayers. It is good government reform.

It is not a partisan thing we are talking about. We are talking about a historic change in the way we do business that will help every agency and department of government because they will have at least 2 years of a solid budget from which to work. They will only have to put together their proposals every 2 years instead of every year. Congress will be able to deal with it one time, and then during the off year, we would be able to examine how we are spending money and make new proposals and new ideas for improving the health care system of America, the savings system of America, and the defense of America.

I thank the Chair, and I note my colleague Senator ALEXANDER from Tennessee is here. I know he strongly shares this view. We have both worked with and met with Senator PETE DOMENICI, long-time former chairman of the Budget Committee and a member of the Appropriations Committee in the Senate, who has championed this battle. Frankly, I think it would be a nice tribute to Senator DOMENICI if, when he completes his tenure, distinguished as it has been in the Senate, we were to pass a 2-year budget.

I thank the Chair, and I yield the floor.

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

Mr. DORGAN. Mr. President, Senator ALEXANDER has not indicated to me the purpose of his presence on the floor, but we are most anxious to get started on the Indian Health Care Improvement Act. That was scheduled for 9:30 this morning. I wish to begin an opening statement at some point, and I know Senator MURKOWSKI would, and we want to do a managers' package.

Senator COBURN is here, because I asked if he would be here at 9:30, and he has a number of amendments. I appreciate very much his work and his efforts on Indian health care. I am hoping we can work with Senator COBURN this morning to deal with some of his amendments. I know he has filed a number of them, and he and I have had many discussions about it. I appreciate his attendance. He has just walked into the Chamber.

Our interest is in getting a lot of work done this morning and this afternoon in order to try to see if we can finish this bill. This will be the third day that the Indian Health Care Improvement bill has been on the floor, so I wish to begin on that. I know Senator ALEXANDER has appeared, though I don't know for what purpose, and perhaps I would be happy to yield to him if he would tell us if he is wanting to do something else on the floor.

Mr. ALEXANDER. Mr. President, I hope to take 5 minutes on the 2-year budget and how I hope, and many of us hope, that it will be something the Democrats and Republicans can agree on to change the way Washington works.

I will be glad to defer that, knowing the importance of moving ahead on Indian affairs.

Mr. DORGAN. If the statement is 5 minutes, I would not object to that, but I do want, at the end of that 5 minutes, to begin the bill. Again, Senator COBURN has arrived, and we have a lot of work to do. But I know Senator ALEXANDER has worked on budget issues for a long while, so I ask unanimous consent that Senator ALEXANDER be recognized for 5 minutes, and after that I will make some comments, Senator MURKOWSKI then will make some comments, and we will begin a discussion with Senator COBURN.

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

The Senator from Tennessee is recognized for 5 minutes.

Mr. ALEXANDER. Mr. President, I greatly appreciate the courtesy of the Senator from North Dakota. He himself is an expert on appropriations and budget matters, both at the Federal level and at the State level. It would be my hope that as this subject I am about to talk about moves ahead, it would be something that would interest him as well.

2-YEAR APPROPRIATIONS

I can make my point quickly and simply. We have heard a lot this year that the people of this country would like a change in the way we do business in Washington, DC. One way to do that is change how we go about our business. That means I would prefer, and I believe almost all of us would prefer, and I know the people would prefer, that we focus on big issues and we come up with good principled ideas. And then we debate those principles, and then we reach across the aisle, because it takes 60 votes to get anything done here to come to a result.

We did that on the economic stimulus, we did that on energy, we did that on terrorism, and it didn't mean we didn't have debates. We had big debates. That is why we are here. But we came to a result and the result had to be bipartisan. I am not so interested in the bipartisanship as I am interested in the result. I heard Rick Warren speak the other day, and he said he wasn't so interested in interfaith dialog as he was interested in good works.

I think that is what the people want to see from us. My suggestion for good works and for results is that we adopt a 2-year appropriations budget process, as described by the Senator from Alabama and as advocated by the Senator from New Mexico, Senator DOMENICI. This is not a Republican idea, this is

not a Democrat idea, this is a good idea. It has the support of Senator FEINGOLD from the other side, and it has the support of the independent Senator, Senator LIEBERMAN, so I would hope it has strong support all across the aisle here.

Let me give an example or two of why it would make a difference. When we debate the higher education bill in a few weeks, I am going to ask permission to bring on the floor several boxes containing all the rules and regulations that 6,000 higher education institutions in this country must wade through in order to accept students who receive a Federal grant or a loan. The stack of boxes is about that high—that many rules and regulations. But this new higher education bill that we will likely pass doubles the number of rules and regulations. Maybe some of them are needed, but what we haven't had time to do is go through that stack of boxes as tall as I am to see if we can cut the regulations in half. We don't have time to do that.

If we spent every other year drawing up a budget and our appropriations bills, and then, in the odd year, going back through rules, laws, and regulations already on the books, I think we would have a strong force for fewer rules, fewer regulations, and fewer laws. And also more effective, if not less, spending.

A second example. The State of Missouri has told the Department of Transportation that with the Federal money we already give the State of Missouri, they can repair every broken bridge they have in 5 years. They can do this as long as we let them do it first under their rules and regulations, without waiting for our appropriations process. In other words, if we let them build the bridges and then we buy the bridges to reimburse them, according to specifications, we don't have to spend any more money to fix all the broken bridges in Missouri.

What that should indicate to us is the gross inefficiency of our appropriations and budget processes when it comes to building roads, when it comes to making contracts, when it comes to waging war. Our process wastes billions of dollars a year. No wonder the people of this country are upset with us.

Final action on appropriations measures has occurred, on average, 86 days after the start of the fiscal year. And our fiscal year starts when? On October 1. I mean, who else begins their year on October 1? That is not the Chinese calendar, it is not most Americans' calendar, but it is our fiscal calendar. So everybody has to adjust their business to a strange year, and then we never meet it.

My hope is that this year we can honor Senator DOMENICI and ourselves. We can add a Democratic name right up there with his, as prominently, and we can say to the country: We are going to change the way Washington does business. We are going to do it in a bipartisan way. We are going to adopt a 2-year budget for spending. We are going to spend every other year revising and repealing laws and make the Government run efficiently. And we are going to get our appropriations and budgeting done on time. We can save the taxpayers dollars so that States, cities, companies, and countries that deal with the United States of America can do so in a timely and efficient way.

I thank the President, and I thank again the Senator from North Dakota and the Senator from Alaska for allowing me this time.

Mr. DORGAN. Mr. President, we are going to turn now to the Indian Health Care Improvement Act, and I am going to be very brief, and I know my colleague will as well because we will have a chance later to speak at greater length.

The Indian Health Care Improvement Act has been the subject of reauthorization for many years, and the Congress has not been able to do it. The fact is we have very serious problems with respect to Indian health care. The Indian Health Service is a very important Federal agency. We have some people who work in that area who do important work and are good and dedicated people, but the fact is the system isn't working very well. We have American Indians—the first Americans, by the way—who are supposed to get health care as a result of treaties and trust responsibilities who are not getting the health care they deserve.

I will again, later today, describe the horrors of Indian health care that does not work. People are dying, people are routinely being denied the health care that every one of us would expect for ourselves and our family. We are trying to reauthorize the Indian Health Care Improvement Act after 8 years. Eight years ago, it was supposed to have been reauthorized. Eight years later, we are still on the floor of the Senate, struggling.

So my hope is, perhaps we will now succeed. Senator MURKOWSKI and the Indian Affairs Committee have worked on a piece of legislation that is not giant reform, it is not a huge step forward, but it is a step forward in the right direction.

Some of my colleagues—I believe my colleague, Senator COBURN—will say we need much larger reform. I do not disagree with that. I am going to be supporting much broader reform in Indian health care. But if you cannot get a modest step in the right direction, how on Earth can you get big, bold reform?

This is the first step in a two-step process to fix what is wrong. I think this Indian Health Care Improvement Act will give us substantial opportunity to improve the health care in the lives of American Indians.

Let me make the point that is important. We owe this health care through treaties, through a trust responsibility. We have made commitments. We owe this health care to American Indians through promises the Federal Government has made.

Regrettably, it has not been adequately delivered. So I am going to talk a little bit later. I know my colleague, Senator COBURN, is on the Senate floor, and he has amendments. I am going to give him an opportunity to speak. I am as well, but I will have an opportunity later this morning to describe in much greater detail why there is an urgency and why this system must be improved. We cannot wait any longer.

I yield the floor.

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

Ms. MURKOWSKI. Mr. President, I thank the chairman of the Indian Affairs Committee for his leadership on this very importation reauthorization bill. As he has indicated, this work is a long time in coming, and it is a collaborative effort not only of those on the committee, those of us who represent so many in Indian country across the Nation, but truly for so many who have put so much work into this reauthorization, this very important health care reform.

We do have amendments we have received and are looking forward to having discussion on them. As Chairman DORGAN has noted, Senator COBURN will have an opportunity to offer some of those this morning. But in the spirit of focusing on what we have in front of us today, I think it is important that we keep in mind we have an obligation to advance a health care system that has been left behind the times in terms of any updates, whether it is in the area of behavioral health or telemedicine or substance abuse or what we are doing with diabetes treatment or how we are moving forward with construction of facilities. We recognize that we have a ways to go in updating the system. This is important and is necessary.

Recognizing the limitations on Senator COBURN's time at this point, I yield to the Senator so he can offer his amendments. We will continue our conversation later in the morning.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, first of all, let me thank the chairman and ranking member, Senator MURKOWSKI, for their work on this effort.

AMENDMENTS NOS. 4024 THROUGH 4037 TO AMENDMENT NO. 3899

Oklahoma is the No. 1 State in the country as far as tribal members. Indian health care is an issue on which we are struggling, and there are all sorts of components for it. I am going to ask unanimous consent now to bring up my amendments numbered 4024 through 4037 as if brought up individually and ask that each be set aside so they will be considered pending. I ask unanimous consent that be carried out at this time.

Mr. DORGAN. I have no objection to that. The Senator and I have talked about this. He wants to get all of his amendments pending. But he will be

asking for discussion and votes on a number of them.

Mr. COBURN. Far less than what I bring up.

Mr. DORGAN. I have no objection.

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

The amendments are as follows:

AMENDMENT NO. 4024 TO AMENDMENT NO. 3899

(Purpose: To ensure that tribal members receive scientifically effective health promotion services)

At the appropriate place in title VIII of the Indian Health Care Improvement Act (as amended by section 101), insert the following:

"SEC. 8___. SCIENTIFICALLY EFFECTIVE HEALTH PROMOTION SERVICES.

''Notwithstanding any other provision of this Act, coverage of health promotion services under this Act shall only be for medical or preventive health services or activities—

''(1) for which scientific evidence demonstrates a direct connection to improving health; and

''(2) that are provided in accordance with applicable medical standards of care.

AMENDMENT NO. 4025 TO AMENDMENT NO. 3899

(Purpose: To clarify the absence of authorization of racial preference in employment)

At the appropriate place in title VIII of the Indian Health Care Improvement Act (as amended by section 101), insert the following:

"SEC. 8___. NO RACIAL PREFERENCE IN EMPLOYMENT.

''Notwithstanding any other provision of this Act, nothing in this Act authorizes any racial preference in employment.

AMENDMENT NO. 4026 TO AMENDMENT NO. 3899

(Purpose: To modify a provision relating to child sexual abuse and prevention treatment programs)

Strike paragraph (5) of section 713(b) of the Indian Health Care Improvement Act (as amended by section 101) and insert the following:

''(5) To identify and provide behavioral health treatment to Indian perpetrators and perpetrators who are members of an Indian household making efforts to begin offender and behavioral health treatment while the perpetrator is incarcerated or at the earliest possible date if the perpetrator is not incarcerated.

At the end of section 713 of the Indian Health Care Improvement Act (as amended by section 101), add the following:

''(d) LIMITATION ON FUNDING.—Treatment shall be provided for a perpetrator pursuant to this section only if the treatment is scientifically demonstrated to reduce the potential of the perpetrator to commit child sexual abuse again, and shall not provide the basis to reduce any applicable criminal punishment or civil liability for that abuse.

AMENDMENT NO. 4027 TO AMENDMENT NO. 3899

(Purpose: To clarify the effect of a title)

At the appropriate place in title VII of the Indian Health Care Improvement Act (as amended by section 101), insert the following:

"SEC. 7___. CRIMINAL CONDUCT.

''Nothing in this title—

''(1) establishes any defense, not otherwise applicable under law, for any individual accused of any crime, including physical or sexual abuse of children or family violence; or

''(2) preempts or otherwise affects any applicable requirement for—

''(A) reporting of criminal conduct, including for child abuse or family violence; or

''(B) creating any new privilege concerning disclosure.

AMENDMENT NO. 4028 TO AMENDMENT NO. 3899

(Purpose: To provide a blood quantum requirement for Federal recognition of Indian tribes)

On page 347, after line 24, add the following:

SEC. 104. BLOOD QUANTUM REQUIREMENT FOR FEDERAL RECOGNITION OF INDIAN TRIBES.

Effective beginning on the date of enactment of this Act, in determining whether to extend Federal recognition to an Indian tribe or other Indian group under part 83 of title 25, Code of Federal Regulations (or successor regulations), the Secretary of the Interior shall require that each member of the Indian tribe or group possess a degree of Indian blood of not less than 1/512.

AMENDMENT NO. 4029 TO AMENDMENT NO. 3899

(Purpose: To require a study of membership criteria for federally recognized Indian tribes)

On page 347, after line 24, add the following:

SEC. 104. GAO STUDY OF MEMBERSHIP CRITERIA FOR FEDERALLY RECOGNIZED INDIAN TRIBES.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of membership criteria for federally recognized Indian tribes, including—

(1) the number of federally recognized Indian tribes in existence on the date on which the study is conducted;

(2) the number of those Indian tribes that use blood quantum as a criterion for membership in the Indian tribe and the importance assigned to that criterion;

(3) the percentage of members of federally recognized Indian tribes that possesses degrees of Indian blood of—

(A) 1/4;

(B) 1/8; and

(C) 1/16; and

(4) the variance in wait times and rationing of health care services within the Service between federally recognized Indian Tribes that use blood quantum as a criterion for membership and those Indian Tribes that do not use blood quantum as such a criterion.

AMENDMENT NO. 4030 TO AMENDMENT NO. 3899

(Purpose: To ensure tribal members have access to the highest levels of quality and safety in the Service)

Strike section 221 of the Indian Health Care Improvement Act (as amended by section 101) and insert the following:

"SEC. 221. LICENSING.

''Nothing in this Act preempts any State requirement regarding licensing of any health care personnel.

AMENDMENT NO. 4031 TO AMENDMENT NO. 3899

(Purpose: To promote transparency and quality in the Service)

At the appropriate place in title VIII of the Indian Health Care Improvement Act (as amended by section 101), insert the following:

"SEC. 8___. GAO ASSESSMENT.

''Not later than 1 year after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Comptroller General of the United States shall conduct, and submit to Congress a report describing the results of, an assessment of—

''(1) the average wait time of patients in the Service;

''(2) the extent of rationing of health care services in the Service;

''(3) the average per capita health care spending on Indians eligible for health care services through the Service;

''(4) the overall health outcomes in Indians, as compared to the overall health outcomes of other residents of the United States;

''(5) patient satisfaction of Indians receiving health care services through the Service;

''(6) the total amount of funds of the Service expended for—

''(A) direct medical care; and

''(B) administrative expenses;

''(7) the health care coverage options available to Indians receiving health care services through the Service;

''(8) the health care services options available to Indians; and

''(9) the health care provider options available to Indians.

AMENDMENT NO. 4032 TO AMENDMENT NO. 3899

(Purpose: To protect rape and sexual assault victims from HIV/AIDS and other sexually transmitted diseases)

At the appropriate place in the Indian Health Care Improvement Act (as amended by section 101), insert the following:

"SEC. _____. TESTING FOR SEXUALLY TRANSMITTED DISEASES IN CASES OF SEXUAL VIOLENCE.

''The Attorney General shall ensure that, with respect to any Federal criminal action involving a sexual assault, rape, or other incident of sexual violence against an Indian—

''(1)(A) at the request of the victim, a defendant is tested for the human immunodeficiency virus (HIV) and such other sexually transmitted diseases as are requested by the victim not later than 48 hours after the date on which the applicable information or indictment is presented;

''(B) a notification of the test results is provided to the victim or the parent or guardian of the victim and the defendant as soon as practicable after the results are generated; and

''(C) such follow-up tests for HIV and other sexually transmitted diseases are provided as are medically appropriate, with the test results made available in accordance with subparagraph (B); and

''(2) pursuant to section 714(a), HIV and other sexually transmitted disease testing, treatment, and counseling is provided for victims of sexual abuse.

AMENDMENT NO. 4033 TO AMENDMENT NO. 3899

(Purpose: To allow tribal members to make their own health care choices)

On page 336, between lines 13 and 14, insert the following:

"SEC. 817. TRIBAL MEMBER CHOICE DEMONSTRATION PROJECT.

''(a) IN GENERAL.—The Secretary shall establish a demonstration project in not less than 3 Service Areas (chosen by the Secretary for optimal participation) under which eligible participants shall be provided with a risk-adjusted subsidy for the purchase of qualified health insurance (as defined in subsection (f)) in order to—

''(1) improve Indian access to high quality health care services;

''(2) provide incentives to Indian patients to seek preventive health care services;

''(3) create opportunities for Indians to participate in the health care decision process;

''(4) encourage effective use of health care services by Indians; and

''(5) allow Indians to make health care coverage and delivery decisions and choices.

''(b) ELIGIBLE PARTICIPANT.—

''(1) VOLUNTARY ENROLLMENT FOR 12-MONTH PERIODS.—

''(A) IN GENERAL.—In this section, the term 'eligible participant' means an Indian who—

''(i) is a member of a federally-recognized Indian Tribe; and

''(ii) voluntarily agrees to enroll in the project conducted under this section (or in

the case of a minor, is voluntarily enrolled on their behalf by a parent or caretaker) for a period of not less than 12 months in lieu of obtaining items or services through any Indian Health Program or any other federally-funded program during any period in which the Indian is enrolled in the project.

''(B) VOLUNTARY EXTENSIONS OF ENROLLMENT.—An eligible participant may voluntarily extend the participant's enrollment in the project for additional 12-month periods.

''(2) HARDSHIP EXCEPTION.—The Secretary shall specify criteria for permitting an eligible participant to disenroll from the project before the end of any 12-month period of enrollment to prevent undue hardship.

''(c) SUBSIDIES REQUIREMENT.—The average amount of all subsidies provided to eligible participants enrolled in the demonstration project established under this section for each 12-month period during which the project is conducted shall not exceed the amount equal to the average of the per capita expenditures for providing Indians items or services from all Indian Health Programs for the most recent fiscal year for which data is available.

''(d) SPECIAL RULES.—

''(1) TREATMENT.—The amount of a subsidy provided to an eligible participant in the project shall not be counted as income or assets for purposes of determining eligibility for benefits under any Federal public assistance program.

''(2) BUDGET NEUTRALITY.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made to carry out the project do not exceed the amount of Federal expenditures which would have been made for the provision of health care items and services to eligible participants if the project had not been implemented.

''(e) DEMONSTRATION PERIOD; REPORTS TO CONGRESS.—

''(1) DEMONSTRATION PERIOD.—

''(A) INITIAL PERIOD.—The demonstration project established under this section shall begin not later than the date that is 1 year after the date of enactment of this section and shall be conducted for a period of 5 years.

''(B) EXTENSIONS.—The Secretary may extend the project for such additional periods as the Secretary determines appropriate, unless the Secretary determines that the project is unsuccessful in achieving the purposes described in subsection (a), taking into account cost-effectiveness, quality of care, and such other criteria as the Secretary may specify.

''(2) PERIODIC REPORTS TO CONGRESS.—During the 5-year period described in paragraph (1), the Secretary shall periodically submit reports to Congress regarding the progress of demonstration project conducted under this section. Each report shall include information concerning the populations participating in the project, participant satisfaction (determined by indicators of satisfaction with security, affordability, access, choice, and quality) as compared with items and services that the participant would have received from Indian Health Programs, and the impact of the project on access to, and the availability of, high quality health care services for Indians.

''(f) QUALIFIED HEALTH INSURANCE.—

''(1) IN GENERAL.—In this section, the term 'qualified health insurance' means insurance which constitutes medical care as defined in section 213(d) of the Internal Revenue Code of 1986 without regard to—

''(A) paragraph (1)(C) thereof, and

''(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

''(2) EXCLUSION OF CERTAIN OTHER CONTRACTS.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c) of such Code).''.

AMENDMENT NO. 4034 TO AMENDMENT NO. 3899

(Purpose: To allow tribal members to make their own health care choices)

On page 336, between lines 13 and 14, insert the following:

''SEC. 817. TRIBAL MEMBER CHOICE PROGRAM.

''(a) IN GENERAL.—The Secretary shall establish a program in geographically feasible Service Areas (as determined by the Secretary, taking into account those Service Areas that are likely to have optimal participation) under which eligible participants shall be provided with a risk-adjusted subsidy for the purchase of qualified health insurance (as defined in subsection (f)) in order to—

''(1) improve Indian access to high quality health care services;

''(2) provide incentives to Indian patients to seek preventive health care services;

''(3) create opportunities for Indians to participate in the health care decision process;

''(4) encourage effective use of health care services by Indians; and

''(5) allow Indians to make health care coverage and delivery decisions and choices.

''(b) ELIGIBLE PARTICIPANT.—

''(1) VOLUNTARY ENROLLMENT FOR 12-MONTH PERIODS.—

''(A) IN GENERAL.—In this section, the term 'eligible participant' means an Indian who—

''(i) is a member of a federally-recognized Indian Tribe; and

''(ii) voluntarily agrees to enroll in the program conducted under this section (or in the case of a minor, is voluntarily enrolled on their behalf by a parent or caretaker) for a period of not less than 12 months in lieu of obtaining items or services through any Indian Health Program or any other federally-funded program during any period in which the Indian is enrolled in the program.

''(B) VOLUNTARY EXTENSIONS OF ENROLLMENT.—An eligible participant may voluntarily extend the participant's enrollment in the program for additional 12-month periods.

''(2) HARDSHIP EXCEPTION.—The Secretary shall specify criteria for permitting an eligible participant to disenroll from the program before the end of any 12-month period of enrollment to prevent undue hardship.

''(c) SUBSIDIES REQUIREMENT.—The average amount of all subsidies provided to eligible participants enrolled in the program established under this section for each 12-month period during which the program is conducted shall not exceed the amount equal to the average of the per capita expenditures for providing Indians items or services from all Indian Health Programs for the most recent fiscal year for which data is available.

''(d) SPECIAL RULES.—

''(1) TREATMENT.—The amount of a subsidy provided to an eligible participant in the program shall not be counted as income or assets for purposes of determining eligibility for benefits under any Federal public assistance program.

''(2) BUDGET NEUTRALITY.—In conducting the program under this section, the Secretary shall ensure that the aggregate payments made to carry out the program do not exceed the amount of Federal expenditures which would have been made for the provision of health care items and services to eligible participants if the program had not been implemented.

''(e) IMPLEMENTATION; REPORTS TO CONGRESS.—

''(1) IMPLEMENTATION.—

''(A) INITIAL PERIOD.—The program established under this section shall begin not later than the date that is 1 year after the date of enactment of this section and shall be conducted for a period of at least 5 years.

''(B) EXTENSIONS.—The Secretary may extend the program for such additional periods as the Secretary determines appropriate, unless the Secretary determines that the program is unsuccessful in achieving the purposes described in subsection (a), taking into account cost-effectiveness, quality of care, and such other criteria as the Secretary may specify.

''(2) REPORTS TO CONGRESS.—During the initial 5-year period in which the program is conducted, and during any period thereafter in which the program is extended, the Secretary shall periodically submit reports to Congress regarding the progress of program. Each report shall include information concerning the populations participating in the program, participant satisfaction (determined by indicators of satisfaction with security, affordability, access, choice, and quality) as compared with items and services that the participant would have received from Indian Health Programs, and the impact of the program on access to, and the availability of, high quality health care services for Indians.

''(f) QUALIFIED HEALTH INSURANCE.—

''(1) IN GENERAL.—In this section, the term 'qualified health insurance' means insurance which constitutes medical care as defined in section 213(d) of the Internal Revenue Code of 1986 without regard to—

''(A) paragraph (1)(C) thereof, and

''(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

''(2) EXCLUSION OF CERTAIN OTHER CONTRACTS.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c) of such Code).''.

AMENDMENT NO. 4035 TO AMENDMENT NO. 3899

(Purpose: To prioritize patient care over administrative overhead)

At the appropriate place in title VIII of the Indian Health Care Improvement Act (as amended by section 101), insert the following:

''SEC. 8___. REQUIREMENT.

''Not less than 85 percent of amounts made available to carry out this Act shall be used to provide the medical services authorized by this Act.

AMENDMENT NO. 4036 TO AMENDMENT NO. 3899

(Purpose: To prioritize scarce resources to basic medical services for Indians)

On page 121, strike line 15 and insert the following:

''(c) PRIORITIZATION.—Before providing any hospice care, assisted living service, long-term care service, or home- or community-based service pursuant to this section, the Secretary shall give priority to the provision of basic medical services to Indians.

''(d) DEFINITIONS.—For the purposes of this section,

AMENDMENT NO. 4037 TO AMENDMENT NO. 3899

(Purpose: To prioritize scarce resources to basic medical services for Indians)

On page 121, strike line 15 and insert the following:

''(c) EFFECTIVE DATE.—

''(1) EFFECTIVE DATE.—This section takes effect on the date on which the Secretary makes the certification described in paragraph (2).

''(2) CERTIFICATION.—The certification referred to in paragraph (1) is a certification by the Secretary to Congress that—

''(A) the service availability, rationing, and wait times for existing health services within the Service are—

''(i) acceptable to Indians; and

''(ii) comparable to the service availability and wait times experienced by other residents of the United States; and

''(B) the provision of services under this section will not divert resources from or negatively affect the provision of basic medical and dental services by the Service.

''(d) DEFINITIONS.—For the purposes of this section,

Mr. COBURN. Let me start by saying, improving the health care of Indians in this country is a widely supported goal. Senator DORGAN's heart is in the right place on this issue. He knows the problems we have, and he spent countless hours trying to get to this point with this bill. I do not want to be seen—I have told him, and I committed to him my goal is not to block his progress on this bill.

However, I believe this legislation as drafted does not fix the underlying problems. He and I have had several conversations about that. It does not fix rationing that is going on today. It does not fix waiting lines that are going on today. It does not fix the inferior quality that is being applied to a lot of Native Americans and Alaskans in this country. It does not fix any of those problems. In fact, it authorizes more services without making sure the money is there to follow it. The average Native American in this country has $2,100 per year spent on them.

Now, let's put that in perspective. The average veteran we take care of has $4,300. The average individual per person, per capita, expenditure in our country is $7,000. Yet we are going to pass a bill that does not fix anything. It does not fix the real problems about addressing the No. 1 problem which is, we are not sending enough dollars to meet the treaty obligations that we have with Native Americans. So really what this bill is, it is called the Indian Health Care Improvement Act, but it improves our position with tribes because we have done something, but it does not improve health care. It is not going to improve health care. It is going to increase the availability of services without the money, without the control, without the quality, without eliminating the waiting lines.

As a matter of fact, it is going to add to the waiting lines as I read this bill, as somebody who is somewhat experienced in medicine. Those who say a failure to reauthorize the Indian Health Care Improvement Act is a violation of our trust obligations are correct. However, I believe simply reauthorizing this system with minor modifications is an even greater violation of that commitment. It is a greater violation. Dozens of tribal leaders are not expressing enthusiasm for the current structure.

Chuck Grim, an Oklahoman, head of this service, knows what is broken. I have had lots of conversations with him. We know what is broken, we know how to fix it, but we have to be bold in how we go about fixing it. We are not bold in this. We are not changing it. We are not doing the structural changes that have to happen for us to live up to the commitment that we have made to Native Americans.

The myriad of problems facing Indian health care in Indian country are many of the same issues that are facing health care delivery throughout rural America. They are compounded, however, in this system by a system that refuses to recognize its own role in holding back health care delivery for Native Americans.

In designing health care reforms, markets work when they are allowed to. They lower the price of all goods and services, and they attract much needed outside investment. Many tribes in Oklahoma are at the forefront of new and innovative health care delivery systems. They are poised to become a model for delivery throughout the system.

Congress must ensure, however, that their efforts are not discouraged or stopped altogether by the current system. Furthermore, there is no good reason that forward-thinking tribal governments should not be prevented from developing market-driven health care centers of excellence that will attract researchers, physicians, and patients for cutting edge lifesaving treatments. We do not do that in this bill.

Furthermore, this legislation fails to focus on empowering individual tribal members. Individual patients tend to receive better care and more effective care when they are empowered to make their own health care decisions. Congress should explore ways to accomplish this objective and give tribal citizens a reason to invest in their own health. Long lines, bureaucratic headaches, and rationed substandard care completely disallow this sort of investment. That is what we have.

Our Chairman has been on the Senate floor multiple times showing how we are rationing care, how we have lines, how we do not give quality care, how we take contract health care—it runs out in 4 or 5 months. And so what happens? People who need care do not get it, and we have not fixed that in this bill. Yet we are calling this health care improvement.

The health care status of tribal members ranks below the general population. The Federal Government has been providing health care to tribal members for 175 years. The first time was to give them a smallpox vaccine in 1807. That is when we started Indian health care. And what we are doing today in comparison to what our treaty obligations are—in comparison, it is the same thing we are doing to the veterans when we tell the veterans: We are going to give you health care and do not give it. It is the same thing we tell schools: We are going to have an IDEA program and then not fund it. It is morally bankrupt legislation that does not meet the commitments that we say we have.

The Snyder Act of 1921 provided a broad and permanent authorization for Federal Indian programs, including—and this is an important thing—the conservation of health; in other words, the prevention of disease, which Chuck Grim was just starting to get into, but we do not have the funding to do it the way we need to do it. We know the manifestation of diabetes and addiction and hypertension and heart disease among our tribal members is higher than any other group in our country. Yet the conservation of health has not been exploited, the paradigm shift that has to happen in Native American care to where we go to prevention instead of treatment of disease. It is not in here. We are not doing it.

Last year, we spent $3.18 billion doing this. If we just funded it at the level we fund per capita veterans care, we should be funding $6.5 billion in Native American health care. That is just on a per capita basis, let alone any structural changes on how we might make preventative care, quality care, timely care, and compassionate care a part of Native American care. But we are not doing that. Indians in comparison with the general population are 6.5 times more likely to die from alcoholism. That is a disease we need to be preventing. That is a health care problem. They are six times more likely to die from tuberculosis, a preventable disease; three times more likely to die from diabetes, a controllable and now preventable disease, it is a preventable disease; 2.5 times more likely to die from an accident.

Now, how can we look those statistics in the face and say we have met our treaty obligations? We have failed. We have absolutely failed. Only 71 percent of Native Americans receive prenatal care. That means one out of four Native American moms who get pregnant do not have any prenatal care. We ought to be ashamed. We have failed. We have failed.

Eighteen percent of Native Americans who are pregnant smoke. That is twice the rate of others. Where is our prevention? Where is our education? Where is the priority on what we can do something about?

American Indians suffer from a great death rate from chronic liver disease and cirrhosis. It is 22.7 per 100,000. That is twice what it is for Whites and three times what it is for African Americans in this country. We know what causes it. We do not put the dollars there. We have not put in a streamlined prevention program.

My words are harsh. They are not intended for either the chairman or the ranking member. I passionately care that we meet our commitments, and so I do not want you to take the words I say as directed toward you because I know you care as well.

Where we have a difference is in the ''now.'' What do we do now rather than what do we do later? I think we should be doing it all now. I think we should radically change how we approach our obligations in Native American health care in this country.

Rationing plagues Indian Health Services. It is rationed care. That is

why it is not good care. That is why it is not consistent care. That is why it is not preventative care, because we don't have the resources. We haven't applied the resources to the need. Senator DORGAN has had numerous hearings. He has spoken on the floor about this rationing crisis. But if we don't radically change the system, if we don't change incentives in the system, improving the old will just bring more failure.

The job vacancy rate for dentists is 32 percent. They don't have 80 percent of the nurses they need. They don't have 85 percent of the optometrists, and they only have 86 percent of the doctors, based on the present system. I am proposing a better system with better care based on prevention, a paradigm that says it is a whole lot cheaper to prevent your illness than it is to treat it once you get it. It is common to hear in Indian Country—and I have heard the chairman say it—''don't get sick after June. Contract money is gone. If you get sick after June, nothing will happen. You will not get the referral to the center to take care of you because we don't have the money.

A quote from Dr. Charles Grim, who has been a stellar leader for the IHS:

> We're only able to provide a certain level of dental services in certain populations. We're only able to refer a certain level or number or types of referrals with our contract health service budget into the private sector. . . . But I guess one generalized statement would be that we have a defined population and a defined budget. . . . But it has led to rationing in some parts of our health care system.

Here is the former head of IHS admitting we are rationing the care. When we ration care, we don't match up need with resources. We say: Here are all the resources there are regardless of what the need is. We don't get on the leading edge on prevention. We don't get on the leading edge on treatment because we are scrambling to keep the doors open. How can we have a coherent, fair health care system when we are rationing because the demand is so far greater than we are willing to supply the resources?

According to a GAO report in 2005, health care services are not always available to Native Americans. There are wait times and insufficient care. GAO visited 13 IHS-funded facilities in 2005 and found waiting times at four range from 3 to 6 months to get in to see anybody. Six months? That is worse than England. What happens when you can't get in? The disease gets worse. The complications are worse. The quality of the your health gets worse. Also, the cost to meet the need explodes. So what we have done is raised the cost of care. But more importantly, we have failed on our commitment to provide health to Native Americans.

Three IHS facilities had 90-mile one-way visits to get into a clinic, many without transportation available to them. Three of these, the average was 90 miles to get to a clinic. Even if they have the resources and there is no access because there is a distance to travel, we are going to see the same problem. Nobody is going to go until they absolutely have to. So we lose the benefit of prevention.

Most of the facilities in this GAO report did not have the staff or equipment to offer services onsite so they resorted to contract care. The contract care budget, of course, is small. So what happens? We ration contract care at 12 of the 13 facilities. This idea of rationing isn't a political statement; it is a reality. We are not doing what we are committed by treaty to do. Now we are going to bring a bill to the floor that doesn't meet that commitment. We are still not going to meet the commitment. We will improve it, but we need to overhaul it. We need a top-down, complete change in how we approach our commitment to Native Americans as far as health care. If we did that, we could offer a whole lot more care for a whole lot less money.

We have a bureaucracy that is stumbling all over itself. We are spending money. I will get to the point on the number of bureaucratic positions in IHS that don't deliver any care. Gaps in services result in diagnoses and treatment delays which, of course, make the health of the patient worse and raise the cost. IHS reports that their facilities are required to pay for all priority one services but admit that many of their facilities' available funds are expended before the end of the fiscal year and the payment isn't made.

I experienced that in my own hometown. People come to Hastings Hospital to deliver a baby. Our hospital hasn't been paid on contract care for years. So those in the rest of the community are going to pay for it. The problem is, there is no continuity in care. Prenatal care was provided. Now all of a sudden you don't have a record and you have somebody you have to take care of, let alone that the private hospital that is there isn't going to get paid for the service. Somebody is going to pay for the service, but contract health care isn't. So the fact is, one in four Native Americans in Alaska aren't getting prenatal care. And we know the risk. The average cost for a premature baby is $250,000, let alone the consequence of the problems those kids have. Why in the world would we ever allow that to happen? It is akin to pouring money down the drain because we have not addressed prenatal needs of Native Americans.

Twenty-one percent of those who do get care have less than three prenatal visits on average. That is one in four has less than three prenatal visits. That is like not having prenatal care. Yet we count that as if they had prenatal care. What do we think the consequences will be? The antenatal, postnatal, and perinatal consequences to the Native American population are higher. The birth complications are higher because we are not doing the prenatal care.

The average recommended prenatal visits by the American College of Obstetrics and Gynecology is 14. We average six with Native Americans. You can't call that care.

Under an overburdened system such as this, drastically expanded services to four broad new areas—and this is the problem I have with this bill—will only drain the resources available to the basic core medical services. We are going to expand where we can offer new services. Many of these people are already eligible under Medicaid or Medicaid anyway, but we are going to expand it. What is going to happen is, the tribal government is going to offer the service, and they are going to take the money off the top. They are going to put that into the rest of the tribal funds. So we are actually going to take money out of dollars for health care for tribal members by expanding care and not making sure there are adequate funds.

Making new promises, when we don't keep current ones, doesn't help the Native American population. Let's keep the promises we have already made before we expand services and not throw money at it. It sounds good. The tribes like to hear what we are going to do. We are going to add these four services, but we are not funding the services we are supplying now. Why would we add services knowing that? If we do it, we are going to do it on the cheap. But it feels good because they think we are doing something, when, in fact, we are not fixing the problems. It is kind of like taking a loan out on a brandnew car when you can't buy food. It is the same thing. That is what we are doing with these additional services.

The majority of the bill is more of the same. I have expressed to the chairman that I think we need to radically overhaul the care of Native Americans. I will have a lot more to say. I do have some complications with other commitments in terms of markup. My staff e-mailed me a moment ago that you have made some substantive changes in the managers' amendment on some of the Medicaid and the tribal issues related to urban Indians. I will get with you and try to discuss that because it may affect some of my amendments. I wasn't aware of that until this morning.

I will have an amendment I will talk about now. I don't know that I will when I actually bring it back up. One way to meet our commitment to Native Americans is to give them options. According to CBO, the amendment I will be offering costs no money. It is a zero cost. But what it allows Native Americans is an insurance policy that says you can apply this and go to any Indian Health Service you want to or anywhere else in the country you want to, but you get to choose. The same dollars get spent, but the services will be far superior.

There are two results. One, when we do that, it makes the Indian Health Service have to get more competitive. No. 2, and most profoundly, when we do that, we finally live up to our commitment that is embodied in every treaty

we have with Native Americans. Here is the real care. It is not rationed. It is not limited to contract funds. You don't have to get in line to wait in line. You don't have to get an appointment to get an appointment. You don't have to travel 90 miles, if you don't want to. You don't have to have your care rationed. And at no cost increase to the Indian Health Service, we can give Native Americans their own health insurance policy which gives them freedom, dignity, and choice.

I know that will be controversial. It is not controversial with any Indian I have talked to. It is controversial with tribal leaders because it takes the dominance of tribal leaders away and gives freedom to members of the tribes to whom we have made a commitment for health care.

So as we offer that amendment and look at it, I know there will be objections, but it does—most importantly, with the same dollars—allow us to fulfill a commitment we are not fulfilling today. It allows a pregnant Native American to have 14 visits, allows her to have the same care anybody else would have. It allows us to get better outcomes. It allows us to get a patient into an endocrinologist, where they will manage their diabetes so they will not have complications. Kidney failure is twice as high in this population as anybody else. Why? Because diabetes is not managed. How many of you have gone into a dialysis center and watched people sit there for 8 hours a day, chained to a machine to keep them alive, because we didn't keep our commitment by having the dollars there to prevent the complications of diabetes?

This gives an equal ranking to a Native American as a Member of Congress. You can have preventative care for your diabetes so you don't end up on dialysis or with an amputation or losing your vision. It offers them hope. It offers honor and integrity because we finally keep our commitments.

I wanted to talk about a couple other things and then I will close and come back. I appreciate the chairman giving me this time. As Congress discusses Indian health care over the next several days, America as a country should take note of what a single-payer system means in terms of the quality of care we can expect. America should not go the route of a single-payer system. That is what we are seeing. That is what we have in IHS. It is a single-payer system. The promise sounds alluring, but the reality is inevitably negative. It is negative in terms of prevention. It is negative in terms of care. It is negative in terms of complications. It is negative in terms of innovation. It is negative in terms of the paradigm of prevention.

Second, fixing the system for our Native Americans demands more than adding more new programs and services. We need a fundamental overhaul of the system. The Members of federally recognized tribes whom we have a trust obligation to provide health care for deserve better than is in this bill. Actually, I believe Chairman DORGAN believes that too. He believes this is a stepped process. They deserve a choice. They deserve the security to know they can get health care when they need it. They deserve quality. They deserve the health care outcomes the rest of this country enjoys that they presently do not have.

Throughout this debate on this bill, you will hear the same statistics on rationing, wait lines from both the Democrats and Republicans. We see it. We know it is there. Some will argue it is a solution that just involves passing this bill that has new programs. Every time we pass an Indian Health Care Improvement Act bill, we cite the same terrible statistics. We pass the bill because we need to do something. But each time we pass the Indian Health Care Improvement Act, Indian health care does not improve.

What does that mean? We pass an Indian Health Care Improvement Act, but Indian health care does not improve. Indian health care never improves because we never fix the inefficiency that plagues the IHS. We just reauthorize and add new regulations, new obligations to the same dinosaur.

Now, the statistics I was referring to earlier: The Indian Health Service has 14,392 employees, including 2,192 commissioned officers; the latter COs include 8 Assistant Attorneys General, 439 director grade individuals, 601 senior grade individuals. The salaries for the COs total $135 million. The salaries for all other IHS employees is estimated at $655 million. The IHS spent $33.7 million on travel last year. On travel? Think about what $33 million could do in terms of prevention for the complications of diabetes for American Indians and Native Alaskans.

The other significant thing is, IHS carried, in 2005—I do not have the number for 2006 or 2007 yet—their obligated balance at the end of the year was $162 million. Just efficiency in how we spend the money could improve health care in Indian Country.

I say to the Senator, Mr. Chairman, I appreciate your efforts. I know you are truly committed to trying to make a difference. I believe we need to be bold. I believe we have an obligation to do better. I believe this is short of the mark. So I am going to be voting against this bill. I am going to be offering amendments to try to make it better. I say to the Senator, I know in the long run you and I have a lot of commonality in how we go about trying to solve this problem.

I do not think Indian Country can wait for us to come back. I do not think the lady who gets on a dialysis machine today for the first time thinks we can wait. I do not think the lady who pops into the delivery room who has not had any prenatal care thinks we can wait. I do not think the person who ends up with coronary artery disease at 40 years of age, because their diabetes and their cholesterol and their hypertension have not been managed, thinks we can wait.

The body will probably think we can wait. But I think we have a moral obligation to meet our commitments, and that means radical change. When you have a cancer, you do not treat it lightly. You go in, you cut it out, you treat it, you follow it, and you aggressively change things so you make an impact in the quality of that person's life.

I think we have to do better. I appreciate the efforts of the chairman and ranking member. My hope is we will live up to our obligations.

With that, I yield back the floor.

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

Mr. DORGAN. Mr. President, the Senator from Oklahoma cannot possibly win a debate we are not having. I have given his speech 17 times on the floor of the Senate. There is no disagreement between us. I am going to give him a chance to be bold, however, as we go down the road on appropriations because that is what he started talking about: the need for the resources, the need for the money. We have to reform this system. I agree with that. Then we have to fund it. The fact is, we are going to have amendments that add sufficient money. You talk about the fact that we are spending twice as much per person on Federal prisoners for health care as we are to meet our responsibility for American Indians—twice as much for those we have incarcerated because we have a responsibility for their health care.

Now, we need additional money in this system, and we need an overhaul of the system itself. The Senator will find no controversy with me with respect to giving American Indians a card to show up at a health facility and get the health care they need. He knows, and I know, there are many American Indians who live far out on a reservation, 90 miles away from the nearest hospital, and they do not have competition in the health delivery system. They have one place to go when they are sick that morning or their child is sick that afternoon.

So we are going to have a chance to be bold. This is an authorization bill, not an appropriations bill. When appropriations come up, we will have a chance to be bold. I hope the Senator will join me on that.

Let me make a couple comments about this issue.

Mr. COBURN. Mr. President, will the chairman yield for a couple moments?

Mr. DORGAN. I am happy to.

Mr. COBURN. Mr. President, I wish to make a couple comments, and then I have to go to a markup.

You will find me an ally on appropriations if we have the courage to make priority choices on where we fund money. You know that. That has been my history. But we do not have extra money, so that means we have to take it from something else. My goal will be that we take from the waste we

all know is there and we put it to the commitments.

So I look forward to that debate. I think you are right. I think we need to up the ante, and we need to add the money. But there is plenty of money for us to go get, and I hope the chairman will help me go get it so we can put it there.

Thank you.

Mr. DORGAN. Mr. President, I certainly will do that.

It is interesting, we are spending $16 billion a month, $4 billion a week to replenish the accounts for the war in Iraq and Afghanistan and other issues. There are plenty of places for us to decide it is time to fix things here at home.

But I wish to talk about a couple of issues. First of all, there are waiting lines. There is rationing. The Senator from Oklahoma is absolutely correct. Dr. Grim, by the way, came to the Committee in support always of the President's request, saying that was enough because he had a responsibility and a requirement to support the President's budget. But get him off the dais at the hearing and ask him the question, and he would admit there is rationing. About 40 percent of the health care that is needed by American Indians is not available. That is health care rationing. That would be scandalous if it were happening in other parts of the country. It ought to be front page headlines, but you will not hear and you will not read many stories about it, regrettably.

But the fact is, we have a circumstance that brings tears to my eyes. I disagree with the Senator from Oklahoma that this is not a worthy bill. This is a step forward in the right direction. It is not the reform we need, but this is a two-step process. If you cannot get this kind of thing done for 10 years, how on Earth are you going to decide to do something much bolder?

Now, we just faced a budget that came up last week that says not only do we not have enough money for Indian health care, let's cut it. The President says, let's cut what we do have, at a time when we have 40 percent rationing. So we are fighting a battle just to keep the money we have. We need much more if we are going to do what we promised we were going to do.

But let me show the Senator a photograph, if I might. Let me show him a photograph of Ta'shon Rain Littlelight because he says the system does not work. I showed the photograph before because her family has given me permission. This beautiful young 5-year-old girl is dead. She is dead, in my judgment, because of a system that does not work.

They took her again and again and again and again to the clinic. It was on the Crow Reservation in Montana, where I held a hearing and her grandmother stood up with this photograph. She told about little Ta'shon Rain Littlelight. You can see she loved to dance.

Ta'shon Rain Littlelight got sick, and they took her to the health clinic. They treated her for depression. Again and again, they treated her for depression. Even her grandparents said: Well, the way her fingers look, with the swelling of the fingertips, and so on, there must be something else wrong.

Well, one day, of course, they had to fly her to Billings, MT, and then immediately fly her to Denver, CO, where they discovered she had terminal cancer and about 3 months to live.

She asked if she could go see Cinderella's Castle, so Make-A-Wish gave her the opportunity, with her mother, to go to Orlando, FL, to see Cinderella's Castle. This little girl with terminal cancer, the night before she was to see Cinderella's Castle, in the motel room in Orlando, FL, told her mother, ''I am so sorry. I am going to try to be better, Mommy. I won't be sick anymore.'' And she died in her mother's arms that night. This little 5-year-old died because the system did not work.

I have shown a picture of Avis Littlewind. She was 14 years of age, lying in a fetal position in a bed for 90 days and then finally took her own life because there was no mental health treatment available on that reservation—no mental health treatment available to try to help that little girl who felt hopeless and helpless.

This is a photograph, by the way, of Avis Littlewind on the Spirit Lake Nation Reservation. Avis was 14, and she took her life. Her sister took her life. Avis took her life.

This is a photograph of Ardel Hale Baker. Ardel Hale Baker was having a heart attack, diagnosed as having a heart attack on an Indian reservation. They wanted to send her to a hospital an hour and a half away. She did not want to go in the ambulance because she knew if it did not get paid somehow, she would have to pay it, and she did not have any money. They put her in an ambulance anyway and took her to the hospital. As Ardel Hale Baker was being taken off the gurney in the emergency room in the hospital, to be put on a hospital gurney, here is what was taped to her thigh—a piece of paper taped to the thigh of this Indian woman; and it was to the hospital from the Department of Health and Human Services—it was saying, by the way, ''If you admit this woman, understand there is no money in contract health care to pay for her,'' warning the hospital: ''Admit this woman and it is very likely you will not be paid.'' This woman is having a heart attack, and shows up with a piece of paper taped to her leg, saying: ''There is no money for you to be paid, if you admit this woman to your hospital,'' or the woman who goes to the Indian Health Service with a knee that is so painful she cannot walk. It is bone on bone; an unbelievable problem with her knee that you or I or our family would get fixed by having a new knee joint put in. She goes to the Indian Health Service, and the Indian Health Service doctor says: ''Wrap it in cabbage leaves for 4 days.'' That is Indian health care. That is unbelievable, just unbelievable to me.

My colleague from Oklahoma says, well, he does not support this bill because it is not bold. I have been on the floor of the Senate. I have offered amendments to add $1 billion to Indian health care, and it gets defeated. I have seen the budget that came last week from this administration that says they want less money for Indian health care.

Let me put up something Chief Joseph said years and years ago. We took all this Indian land, took all those millions and millions of acres—hundreds of millions of acres—from the Indians, but we said to them: Trust us. We will make you a promise. We will sign treaties. We will tell you that we will provide for your health care. We believe we have a trust responsibility. You can trust us.

Well, regrettably, that responsibility has not been met. Those promises have not been kept. Here is Chief Joseph. He said:

> Good words don't last long unless they amount to something. Words don't pay for my dead people. . . .Good words cannot give me back my children. Good words will not give my people good health and stop them from dying.

I care a lot about this issue. In my State, we have four Indian reservations. I have spent a lot of time with them. The fact is, we have people living in the shadows. We have people living in abject, desperate poverty.

I sat with a young girl once at a table with her grandfather. This was a young girl who was put in a foster home at age 3. The woman who put her in a foster home was working 150 cases—150 cases. She did not have time to go check out the home, so she put a 3-year-old girl in a foster home. And on a Saturday night, in a drunken party brawl, a young 3-year-old girl got her arm broken, her nose broken, and her hair pulled out by the roots. That young girl will live forever with those scars.

One hundred and fifty cases a social worker is dealing with? There is such unbelievable difficulty because the resources do not exist. We have people living in Third World conditions.

We had a tribal leader, a chairman of a tribe, say: ''My two daughters live in used trailer houses that we moved from Michigan to the reservation in South Dakota. They don't have indoor plumbing. They have an outdoor rest room, outdoor toilet. One of them has a wood stove in the living room of the trailer house vented out through the window.'' I have seen all of these things. I have experienced all of this. My colleague has seen the same in Alaska. We have people living in Third World conditions in this country. There is a full-scale, bona fide crisis in health care, housing, and education. This bill deals with the question of health care. We have a special responsibility, unlike other responsibilities, because this country has

promised. We have signed treaties. The Supreme Court says we have a trust responsibility. We have not kept our promise, and we have not met our responsibility. I am just flat tired of it.

My colleague says: Let's be bold. Nobody wants to be bolder than I want to be, but we haven't been able to get a bill through here in 10 years, for God's sake. If you can't pass a bill in a decade, how on Earth are you going to be bold? Let's at least take a step in the right direction. I am going to follow that with step 2 on the Indian Affairs Committee, and that is bold, dramatic reform, because this system is not nearly as good as it can be.

He talks about: Why would you add new services? Well, services dealing with diabetes, with cancer screening, with mental health—let's add those services because they are needed, and then let's decide, when the appropriations bill comes around, to add the funding. My colleague knows this is an authorization bill, not a funding bill. We will have a chance to be bold. Let's see who is going to be bold. Let's add the funding to keep our promises, for a change.

My colleague talked a lot about Dr. Grim. I like Dr. Grim. He retired—resigned, I should say—from the Indian Health Service. Dr. Grim came every year, supporting the President's budget. He knew it was not adequate. We know we are rationing health care. The fact is, we all know it. We need to stop it. Are we rationing health care with incarcerated prisoners in Federal prisons? No, we are not, because we have a responsibility for them. We arrest them, we convict them, we send them to prison, and then it is our responsibility to provide for their health care in Federal prisons, and we do it. We spend twice as much per person for them as we do for American Indians. Yet we have the same responsibility for American Indians because we made the promise, signed the treaties, and told them we would provide for these needs. What gives us the right to continue to break our promises? We have done it for decades and decades over almost 200 years. What gives us the right to continue to do that in the face of little children who are dying and in the face of elders who can't get health care? What gives us that right?

I say to my colleague, if you want to be bold, we are going to have a chance to be bold together, because this country ought to stare truth in the face and look at what is happening on Indian reservations.

The other night, I was on an Indian reservation, having a listening session with Indians. There were two sisters sitting in the front row. One sister stood up to speak, and the other sister sobbed uncontrollably—cried and sobbed. It was an unbelievable story about the sister who desperately needed health care and couldn't get it and couldn't find it. She finally had her heart surgery, and of course it was charged back to her, because there was no contract health care. It has completely ruined her credit rating because she doesn't have anything to pay for it, and the Indian Health Service did not serve her needs. She was also treated for depression. She had a heart valve problem that needed surgery, and she was treated for depression. When she finally found a way to get the surgery, it could not be paid for by Indian contract health because they were out of funds. ''Don't get sick after June.'' We had one reservation tell us, don't get sick after January, because they didn't have the money. This poor woman sat there in the chair sobbing as her sister recounted the details of her desperate attempt to deal with a health care problem that was very acute.

So, yes, I am a little bit emotional about these issues. When we have people say, well, let's do much more, I say: Absolutely. Let's do much more than we are now doing. Let's do that in appropriations. That is an awfully good start.

This is an authorization bill which does a lot more than the current Indian Health Care Improvement Act. It does a lot more in areas we know are in urgent need.

We have teen suicide clusters on Indian reservations. In the northern Great Plains, there is a 10 times greater rate of suicide among teenagers—not double, triple, or quadruple, but 10 times the rate of suicide. I went and sat and talked with kids on that reservation, the one where we had a cluster recently. It was just me with some high school kids, talking about what is going on, what is their life like. It is unbelievable.

We need to address these things. That is what we try to do in this Indian Health Care Improvement Act. It is not perfect, but it is certainly a step in the right direction.

I have other things to say, and my colleague may wish to weigh in, as well. My hope will be at the end of the day today that we will be able to get the amendments up and get them voted on. Some of the amendments my colleague described, I likely will support, because I think we can improve this piece of legislation. I think at the end of the day, all of us will hope we will have done something we are proud of, to say to those who don't now have adequate health care or whom we promised health care that we have made a step forward in trying to meet those needs.

Mr. President, I yield the floor.

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

Mr. KYL. Mr. President, let me make just a few comments in response to the Senator from North Dakota.

First of all, I commend him for his work on this bill, as well as the Senator from Alaska, who has worked very hard to get this bill in a position where it could be brought to the floor and considered by this body—in particular, in helping to work out some very contentious issues that have bedeviled people on both sides of the aisle for quite a long time. In the best spirit of working to get legislation accomplished in a bipartisan way, staffs from the committee itself and the two Senators I mentioned and my staff and others rolled up their sleeves, sat down, and have worked out very satisfactory resolutions to three big problems that previously existed. As far as I know now, those issues are totally resolved, language is ready to be substituted into the bill, and it represents a real achievement to try to move this bill forward. I appreciate their cooperation, and I commend the others who have worked on it as well.

I must say also that I am looking forward to working with the Senator from North Dakota when he comes to the State of Arizona to address another issue dealing with Indian Country; that is, the deplorable state of law enforcement, of facilities to deal with people who are apprehended on Indian reservations, and the staff to deal with those. Crime is a huge problem, as is health care, on our Indian reservations throughout the country. It is neglected. It needs more attention. I applaud the Senator from Alaska and the Senator from North Dakota for their attention to this as well, and I look forward to working with them.

Finally, I would note just on a personal basis that a very good thing happened to me because of the Indian Health Service, even though there are a lot of improvements which need to be made in that. Were it not for the Indian Health Service, I probably wouldn't be married to my wife right now. One might say: How on Earth did that happen? But it happened because her father was a pharmacist with the Indian Health Service, and I had the good fortune of being assigned to Tucson, AZ, to work on what was then called the Papago Indian Reservation, now the Tohono O'odham. As a result, his daughter—now my wife—attended the University of Arizona, where we met, and the rest is history, as they say. So I have had some knowledge and information about this for a long time.

I wish to make the point that there are—and I know the Senator from North Dakota and the Senator from Alaska agree with this—thousands of dedicated personnel who are serving our Indian community throughout all of our States under great difficulty. The working conditions are not good, but the professionals are very professional. They are very good. They are dedicated and really work hard on behalf of our Native American citizens. It is as much to give them the resources they need as well as to help those whom they serve to get this legislation adopted and move the process forward.

So I compliment those who have been working on this important legislation and hope that in the remainder of this day—and I will make this point to my colleagues—that if you have amendments you think would improve this

legislation, please bring them to the floor so that we can complete work on this legislation, so that we can take the amendments up and we can dispose of them. Based upon the work we have done in the past, I think it is quite possible that a lot of good suggestions can be considered by staff and eventually Members and perhaps adopted without the need to take up the full Senate's time. But, in any event, bring your amendments down here so we can move this legislation forward as soon as possible to do so.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, let me thank the Senator from Arizona. He has been working very hard with us to try to move this bill along. I would say to my colleagues on this side of the aisle as well: If you have amendments, please bring them. The majority leader has indicated we are going to finish this bill this week, and that will be a significant step forward. I thank the Senator from Alaska and the Senator from Arizona for their work to help us move this bill. He is correct that we had four or five very controversial issues that provoked some opposition. We worked through those, negotiated, and I think all of them are now resolved.

I think when the Senator from Alaska has completed any statement she is going to make, we do have the managers' amendment that amends the substitute we had offered, and that has been negotiated and agreed to on both sides. So when Senator MURKOWSKI has completed her statement, we will ask that it be completed as well.

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

Ms. MURKOWSKI. Mr. President, I understand that the Senator from Oregon, Mr. SMITH, is on his way to the floor, so when he arrives, I will yield such time to him as he needs. I know he wants to speak to an amendment.

I wish to take just a couple of minutes this morning to respond to some of the comments made by the Senator from Oklahoma. Clearly, he is very passionate about Indian health care and making sure that we do right by our treaty obligations and that we do right by all American Indians and Alaska Natives when it comes to their health care needs. He cited some of the obvious. Unfortunately, the statistics are real. In fact, the statistics may be even more devastating than he has indicated because we know that a lot of times our statistics aren't as reliable as we may want, and, in fact, they are worse than what we have seen.

When he spoke to prenatal care, when he spoke to the incidence of diabetes and substance abuse and suicides, we know they are horrific statistics. We recognize we must do more. I, too, applaud him for bold action, for reform in a system that has been unwieldy and bureaucratic and stovepiped in so many areas.

Senator BARRASSO yesterday brought forward an amendment that asks for a GAO study to look to the efficiency. There are some other amendments that have been introduced that also task us with evaluating to make sure we are doing right by the programs that are put in place, how the funding is directed to them, and are we doing what we need to be doing. I think it is fair to say that we recognize it is not sufficient, it is not enough. We do need to be doing more, and certainly, as the chairman of the Indian Affairs Committee has mentioned, we have to put our money where our mouth is. We have to put our money toward those programs. We have to make sure we put the resources there to make the difference.

The Senator from Oklahoma spoke about the rationed care. It is not rationed care because we just don't want to give it; it is rationed care because of the lack of resources, and that is very real and something that must be dealt with, and it must be dealt with in a very strong way.

The Senator from Oklahoma really spoke as well to the issue of prevention, and it was his opinion in his comments that this Indian Health Care Improvement Act doesn't go far enough, that we need to be doing more in the area of prevention. He speaks to a part of me that I feel very strongly about. When we talk about health care in this country, whether it is in Indian Country or in the United States as a whole, it has been referred to as not a system of health care, it is a system of sick care. We take care of you after you are sick. It is no different within the Indian health system. That does have to change. We must focus on the prevention. We know this. We are seeing this. We are working here in the Congress to change those policies to help put greater focus on prevention because we know for a fact that we can reduce costs if we focus on prevention.

Now, the Senator from Oklahoma has indicated that there isn't enough here in the Indian Health Care Improvement Act in the area of prevention. I want to mention some of the initiatives that are included in the legislation that will make a difference, that will reduce health care costs, and that will provide for greater access. It is in the area of prevention.

Diabetes—we have all listened to the stats. They are absolutely unacceptable. We have to be doing more when it comes to diabetes prevention. We must be doing more to keep the elderly woman whom he was discussing off of the dialysis machine. We have to have the focus there. So included within the legislation is a focus on diabetes prevention.

We also look to the issue of domestic violence and sexual assault. Again, in these areas, our statistics with our American Indians and our Alaska Natives are absolutely unacceptable. Are we doing enough in the area? No, we need to do more.

It has been mentioned we have not reauthorized the Indian Health Care Improvement Act in some 10 years. Think about what has happened in this country in terms of health care and how we provide health care, how we focus on prevention in the last 10 years, the technologies that are made available to us, and also the areas of focus. Behavioral health is something about which in my State of Alaska we have been forced to be innovative. We do not have the psychologists and the psychiatrists who are available in all of our little communities. We have been forced to utilize a telehealth system, and we are absolutely making some remarkable progress. But through this Indian Health Care Improvement Act and what we are allowing for, we can allow for expanded opportunities to help, such as in the area of behavioral health.

I have a whole list of other programs that are also included—programs to control blood pressure, immunizations, youth suicide prevention, injury prevention, sudden infant death syndrome training, tobacco cessation programs. These are all programs that go right to the heart of prevention. These are initiatives that will help us reduce our costs, that will help us keep people from becoming ill in the first place, keep people from losing a limb due to diabetes, keep young people from having to live a life afflicted with FAS or FASD.

There are initiatives contained within this legislation that need to be authorized, need to be updated and included to allow American Indians and Alaska Natives the same opportunity for preventive care that we find wherever we go in the country in a community hospital or in the clinic down the street. We have to make sure these programs are included.

Mr. President, I see Senator SMITH has arrived. In recognition of his time limitations today, I yield to him so he can speak to an amendment he is proposing.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes Senator SMITH.

AMENDMENT NO. 3897 TO AMENDMENT NO. 3899

Mr. SMITH. Mr. President, I ask unanimous consent to call up for consideration amendment No. 3897.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. SMITH], for himself, Ms. CANTWELL, Mr. WYDEN, Mr. CRAPO, and Mrs. MURRAY, proposes an amendment numbered 3897 to amendment No. 3899.

Mr. SMITH. 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 modify a provision relating to development of innovative approaches)

Strike subsection (f) of section 301 of the Indian Health Care Improvement Act (as

amended by section 101) and insert the following:

''(f) DEVELOPMENT OF INNOVATIVE APPROACHES.—The Secretary shall consult and cooperate with Indian Tribes and Tribal Organizations, and confer with Urban Indian Organizations, in developing innovative approaches to address all or part of the total unmet need for construction of health facilities, that may include—

''(1) the establishment of an area distribution fund in which a portion of health facility construction funding could be devoted to all Service Areas;

''(2) approaches provided for in other provisions of this title; and

''(3) other approaches, as the Secretary determines to be appropriate.''.

Mr. SMITH. Mr. President, I rise today to speak in favor of reauthorizing the Indian Health Care Improvement Act. I begin by thanking Chairman DORGAN and Ranking Member MURKOWSKI for their leadership and for building on the momentum from the last Congress to reauthorize this very important and overdue reauthorization of this act.

Like most of my colleagues, I feel that passing this legislation is critical and it is about time. Since passage of the act in 1976, this legislation has provided the framework for carrying out responsibility to provide Native Americans with adequate health care. As we know, the act has not been updated in 16 years despite the growing needs among Native Americans. We cannot allow the health of this population to remain in jeopardy any longer.

Today, funding levels meet only 60 percent of the demand for services each year which requires the Indian Health Services tribal health facilities and urban Indian health care providers to ration care, resulting in tragic denials of needed services.

Speaking of the urban Indian health programs, reauthorization of the act will facilitate the modernization of the systems, such as prevention and behavioral health programs, for approximately 1.8 million Native Americans. I sincerely hope we can pass this legislation and send it to the President for his signature.

Although this bill makes vast and necessary improvements upon existing law, it is not perfect. Currently, the vast majority of Federal funding for construction and modernization of tribal health care facilities goes to tribes in less than 10 States. Unfortunately, this bill maintains that inequity among tribes by favoring construction in those few States.

I offered today an amendment with Senator CANTWELL that will correct this problem and instill equity among all of the Native American tribes.

This concern is particularly relevant in my home State of Oregon which is 1 of over 40 States that have never—I repeat, never—received funding to build an Indian Health Service hospital.

Since the beginning of last year, I have worked with my colleagues to find a compromise to resolve this issue in a way that is not detrimental to any region of the country. I believe my amendment is just that: a good-faith compromise that will provide equity to the health facility system. It does so by providing the Indian Health Service the authority to use an area distribution fund which would allocate a portion of health facility construction funds to all 12 Indian Health Service areas to improve, expand, or replace existing health care facilities.

This area distribution fund is not the idea of a single Senator or a single region of the country. It is the product of years of work and compromise by the Indian Health Service and tribes and after Congress recognized the need to create a more equitable facilities construction system.

The current system has been locked into place since 1991, and it will be over 20 or 30 years before funding will go to new projects. I do not see how that is fair and equitable if we have an obligation to all.

Sadly, this has resulted in wide disparities in the level of health services provided to tribal communities across the country. I believe this amendment represents a rational middle ground on this issue.

I also want to highlight that this compromise language is supported by regions of the country with nearly 400 of the 561 federally recognized tribes that reside in 23 States. Those folks are out if this does not pass.

I also want to add that it is not my intention to rob one IHS area to pay another. I believe that an area distribution fund works best when and if funding for IHS is expanded. We simply have to enlarge this pie so we are not disadvantaging any tribes in the Southwest of our country, but we must not abandon, as we have been, the tribes all over the rest of the country. That is why I asked my colleagues to join me in sending a letter to the administration seeking a 15 percent increase in IHS funding for fiscal year 2009. I hope we are successful in this effort. But regardless, we must take steps through this bill to establish a fairer system—just a fairer system—to distribute Federal funding.

If we are sincere about the title of the legislation at hand—of better meeting our statutory, our treaty, and our moral obligations to improve the health care of all Native Americans—then my amendment should be adopted.

I ask my colleagues to support this amendment to ensure that all Native American Indians receive the health care they need, they deserve, and what we have promised.

I close with a quote from Morning Dove, the literary name of Christine Quintasket, a Sa-lish tribal woman from the Pacific Northwest, now recognized as the first Native American woman to publish a novel. She wrote:

> Everything on the earth has a purpose, every disease an herb to cure it, and every person a mission . . . this is the Indian theory of existence.

There are, indeed, cures and treatment for the maladies that disproportionately affect Native Americans—diabetes, alcoholism, suicides that result from mental disorders, and so many others. The purpose and the mission of this bill is to connect those cures with those who need it most, those who have sought it longest, and through the dismal chapters of our Nation's history have a unique claim to those cures and treatments.

I urge the adoption of this amendment.

I yield the floor. 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. COLEMAN. 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. COLEMAN. Mr. President, I rise in support of the Mikulski-Coleman-Klobuchar amendment to place a moratorium on CMS's December 4 rule on Medicaid case management services. Last night, Senator MIKULSKI—and I joined with her—and Senator KLOBUCHAR offered this case management legislation as an amendment to the Indian health bill being debated on the floor.

I begin by saying I fully understand the fiscal challenges our entitlement programs face, and I look forward to the day when we can put politics aside and have an honest and productive discussion about how to preserve these programs for future generations. I think we can all agree that the goal of that conversation is to find a delicate balance between fiscal responsibility and making sure our Nation's most vulnerable populations still have access to the health care services they so desperately need. Unfortunately, when it comes to the case management rule, while I support CMS's intent to cut out wasteful spending, it is clear to me that it fails to achieve this delicate balance.

I cannot think of a better way to describe case management than to say it is the glue that holds together our Nation's Medicaid system. In my home State of Minnesota, I have consistently heard from social workers, county supervisors, health care providers, and others about how devastating this new regulation will be for at-risk individuals and families.

Suffice it to say, when I travel throughout Minnesota and I meet with county commissioners, one of the first things they say to me is targeted case management and they raise the deep concern that the proposed CMS rules will have on their ability to service needy individuals in my State. I suspect if my colleagues across the country talk with a county commissioner, this is what they are going to hear.

I hear that without comprehensive case management services, millions of Americans with mental illness will not be able to access the treatment medications they need to survive; that people living with disabilities will find

themselves forced to remain in institutions instead of enjoying the dignity of independent community-based living; that our most vulnerable children, those in foster care, will be left alone to navigate a complex and often overwhelming Medicaid system.

That is why I introduced the legislation this amendment is based on, and that is why this legislation is not only cosponsored by 19 of our Senate colleagues but also has the support of several advocacy groups throughout the country, including the Child Welfare League, Muscular Sclerosis Society, National Alliance on Mental Illness, National Council for Community Behavioral Health, and many others.

All these groups recognize the devastating effect this regulation will have on those most in need of important case management services.

Let me take a moment to highlight some of the fundamental problems with this rule. This new regulation requires that case management services must be delivered by a single case manager, which sounds reasonable enough. However, we are talking about populations that can have up to four or five or six chronic conditions. If this rule is finalized, it would require that a single case manager provide quality case management services to a person who may be suffering with HIV, mental illness, and diabetes all at the same time. Should we not have a health system that allows a team of specialized case managers to work together to address each of these complex issues?

Isn't the kind of care, integrated care a key element of making sure our health care system is keeping people healthy, not just treating them when they get sick?

Another concern I have consistently heard is the new limitations on moving people from an institutional setting to a less restrictive community-based setting. Let me remind you that moving people to community-based settings was a key recommendation of the President's own New Freedom Commission on Mental Health. Yet under this new rule, case managers would have significantly less time to prepare people to move from an institution to a community. Let me also point out that the administration has made ''home and community-based waivers'' a key element of its Medicaid reform efforts. I could not be more supportive of this initiative. We should, whenever possible, make every effort to allow people to live with dignity and independence in the setting of their choice. Unfortunately, this new rule will stand in the way of these efforts and force many people to remain institutionalized.

Finally, this new rule eviscerates case management for some of our Nation's most vulnerable children, those living in the foster care system. By not allowing child welfare workers to provide case management services, many children will be left to fend for themselves when seeking medical services. As I said before, I am all for fiscal responsibility, but I cannot support reforms that will have such a destructive impact on America's foster care system. These children already have enough obstacles to face. Let's not make their lives more challenging by taking away these critical case management services.

I should note that this amendment is fully paid for. Actually, the ''paid for'' is a key step forward in preserving our entitlement programs. My investigation, as ranking member of the Permanent Subcommittee on Investigations, revealed that thousands of Medicare providers who are supposed to be serving our Nation's elderly and disabled are, instead, cheating American taxpayers in order to line their own pockets. As a solution, a provision in this amendment will save American taxpayers close to $160 million over the next 5 years by ensuring that CMS participates in the Federal Payment Levy Program so that Medicare payments to these tax cheats can be levied. The administration supports this proposal, going so far as to include it in the 2009 budget.

This amendment is simple. We recognize that we need to provide more direction in case management services, but all we are asking CMS to do is take another year and work with Congress and the relevant stakeholders to develop a reasonable rule that clarifies the scope of the case management program but still provides the critical services our most vulnerable populations rely on.

My father was a carpenter by trade. He told me always that we should measure twice and cut once. In this case management program, what we have is individuals working as a system to deliver, in the most effective way possible, services to the neediest. It makes sense. I understand their concerns. CMS in my State—and I suspect in Wisconsin, the State of the Presiding Officer—our folks do this well. CMS found out that, in fact, we are doing it well. We are doing what the program is supposed to do, with very little waste. If there is waste in other areas of the country, let us have a conversation about it but don't hurt the neediest and penalize the States that are doing a good job in providing coordinated services to those at risk and those in need.

As I said before, this is an issue that each and every time I travel and visit with my county commissioners, those involved in the unheralded work of simply dealing with those in need—they don't get a lot of credit being county commissioners, but they are all worried and concerned. They tell me: Senator, we are doing it right and we are about to be penalized.

We should be better than that. Let's step back and take a breath and put a hold on the implementation of this rule, and let's figure out a way to do it right. Let's measure twice and only cut once.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I filed a number of technical improvements to this bill, which I wish to work on with the chairman to see if we can resolve these without a vote. These are very small wording amendments, in some cases, that I would like the chairman and his staff to look at before I call them up, because I think it is very unlikely we will need votes on these particular amendments.

AMENDMENT NO. 4067 TO AMENDMENT NO. 3894

Mr. DEMINT. Mr. President, I call for the regular order with respect to the Bingaman amendment No. 3894 and I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The amendment is pending.

The clerk will report the second-degree amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 4067 to amendment No. 3894.

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

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

The amendment is as follows:

(Purpose: To rescind funds appropriated by the Consolidated Appropriations Act, 2008, for the City of Berkeley, California, and any entities located in such city, and to provide that such funds shall be transferred to the Operation and Maintenance, Marine Corps account of the Department of Defense for the purposes of recruiting)

At the appropriate place, add the following:

SEC. ___. RECISSION AND TRANSFER OF FUNDS.

(a) RECISSION OF CERTAIN EARMARKS.—All of the amounts appropriated by the Consolidated Appropriations Act, 2008 (Public Law 110–161) and the accompanying report for congressional directed spending items for the City of Berkeley, California, or entities located in such city are hereby rescinded.

(b) TRANSFER OF FUNDS TO OPERATION AND MAINTENANCE, MARINE CORPS.—The amounts rescinded under subsection (a) shall be transferred to the ''OPERATION AND MAINTENANCE, MARINE CORPS'' account of the Department of Defense for fiscal year 2008 to be used for recruiting purposes.

(c) CONGRESSIONAL DIRECTED SPENDING ITEM DEFINED.—In this section, the term ''congressional directed spending item'' has the meaning given such term in paragraph 5(a) of rule XLIV of the Standing Rules of the Senate.

Mr. DEMINT. Mr. President, I ask for the yeas and nays on my amendment and the Bingaman amendment.

The PRESIDING OFFICER. Is there objection to obtaining the yeas and nays on both amendments in one request?

Mr. DORGAN. Mr. President, I object. I have not had a chance to visit with my colleague. I wish to do so first.

The PRESIDING OFFICER. Objection is heard.

Mr. DEMINT. Mr. President, we will talk about it and get the vote later on. I want to say a few words about this amendment.

My amendment is identical to the Semper Fi Act, which I introduced along with Senators ALLARD, BOND, BURR, CHAMBLISS, COBURN, CORNYN, INHOFE, MARTINEZ, MCCONNELL, VITTER, and probably a number of other Members. Since the bill that is pending now will probably be the last vote before the recess, I think it is important that we vote on this Semper Fi amendment. Last week, when I introduced the bill, the majority leader did not recess so that we could not get this on the calendar. This is an important bill, which I will explain in a minute. We also tried to move it by unanimous consent through the hotline process, and all of the Republicans approved the bill, but apparently someone on the majority side is holding it. That is why it is important that this amendment be part of the bill we are considering today.

The Semper Fi Act would rescind all earmarks, or specially designated spending projects, contained in the fiscal year 2008 Consolidated Omnibus Appropriations Act for the city of Berkeley and entities located therein, and redirects those funds to the U.S. Marine Corps.

For those who have not been paying attention, the Berkeley City Council recently voted to ask the U.S. Marine Corps to vacate their recruiting office in town, and that if they chose to stay they did so as ''uninvited and unwelcome intruders.''

During debate of the resolution, one council member called the Marines ''the President's own gangsters'' and ''trained killers.'' Another said the Marines had given the country ''horrible karma'' and said they had a history of ''death and destruction.'' In a document drafted to support the resolution against the Marines, the council stated: ''Military recruiters are sales people known to lie to and seduce minors and young adults into contracting themselves into military service with false promises regarding jobs, job training, education and other benefits.''

After voting to insult the men and women who fight and bleed for their freedom, the city council cast another ridiculous vote in favor of giving the radical protest group Code Pink a parking space directly in front of the Marine Corps recruiting station. They also voted to give Code Pink a sound permit for protests in front of the Marine Corps building. The city council stated in the resolution that they ''encourage all people to avoid cooperation with the Marine Corps recruiting station'' and to ''applaud'' Code Pink for working to ''impede, passively or actively'' the work of the Marines Corps in Berkeley.

Frankly, I just returned from a visit to Iraq, saw our marines on the ground and what they were doing. It is inconceivable to me that any governing body in this country would say such things to our marines.

Code Pink is a fringe organization that distinguishes itself by attacking American policy, while defending dictator Hugo Chavez. The group is so disrespectful that they have no problems demonstrating in front of wounded soldiers at Walter Reed Medical Center with signs reading ''Maimed for a lie.''

The council's resolution sparked an escalation of anti-Marine protests. Code Pink organizer Zanne Joy points to the city council as justification for the escalation. She said that ''anything legal is justified if it succeeds in persuading the Marine Corps to move its recruiting station out of Berkeley.'' According to the San Francisco Chronicle, Code Pink protesters have been heard shouting at young men who are trying to enter the recruiting station, ''You guys are just cannon fodder!'' and ''They want to train you to kill babies!''

It is sad to see a city like Berkeley moving so far left. The city in which the legendary World War II Pacific Theater Commander, Fleet Admiral Chester W. Nimitz, established the Naval ROTC in the fall of 1926 is now sadly a shell of its former self, thanks to its elected leadership.

This is disappointing, but in a republican form of government, it must be up to local voters to change their leadership.

However, this particular case became the business of all Americans when they insulted our troops and their constitutional mission to defend our country; while coming to the Federal Government asking for special taxpayer-funded handouts. Over $2 million was secretly tucked away for Berkeley earmarks in the 2008 Omnibus appropriations bill, projects that were never voted on or debated.

I do not believe a city that has turned its back on our country's finest deserves $2 million worth of pork barrel projects. So my amendment revokes these earmarks.

Included in the $2 million worth of pork are some particularly wasteful projects.

One earmark provides gourmet organic lunches to schools in the Berkeley School District. While our Marines are making due with MREs of Sloppy Joe and chili with beans, Berkeley students will get Federal tax dollars to design meals that promote ''environmental harmony.'' Chez Panisse's menu features ''Comté cheese soufflé with mâche salad'', ''Meyer lemon éclairs with huckleberry coulis''; and ''Chicory salad with creamy anchovy vinaigrette and olive toast''. That is unacceptable.

Are we to understand that the city that has been home to many of the country's most rich and famous cannot afford to pay for its own designer school lunches?

Another $975,000 earmark is for the Matsui Center for Politics and Public Service at U.C. Berkeley, which may include cataloging the papers of the late Congressman Robert Matsui. Is it really necessary to tax the paychecks of Marines so we can earmark nearly $1 million for a school that is already sitting on a $3.5 billion endowment?

Let me be clear, my amendment does not cut off all Federal funds to the city of Berkeley, though I am sure most Americans would feel that is justified. It merely rescinds wasteful earmarks. Berkeley is free to compete with other towns and cities across America for merit-based Federal grants.

Actions have consequences. When the Berkeley City Council decided to insult the Marines in a time of war, it was a $2 million decision. Especially in a time of war, we cannot just allow cities to play insulting games at our troops' expense while continuing to shower them with congressional favors.

On Tuesday, the city council met to revisit its ridiculous actions. Hundreds of military supporters and antiwar protesters gathered at Berkeley City Hall. Berkeley police reported four arrests before the meeting began, all misdemeanors. Police said there were minor scuffles between the antiwar and promilitary camps. An American flag was set aflame outside the city council chambers, damaging a pair of bicycles. When the council meeting finally started, more than 100 speakers took turns at the podium.

In a sense, what happened in Berkeley was a quintessential American experience, a spirited exchange and protest followed by debate and democratic action. And while I find some of the views and behavior of many of the protestors repugnant, the exchange itself is a solemn reminder of those who have sacrificed so much to preserve our freedom, especially our freedom of speech.

Let me be clear. I do not question the sincerity of anyone on either side of the issue. I think there is genuine concern among many in this country about the war. But while we can respect the legitimate worries about the war and can respect the sincerity of even the most radical protestors, we must recognize that words have meaning and actions have consequences. Some of the hateful words that have come out of Berkeley, CA, have had real consequences on our troops, their families, and our recruiting.

One of those who spoke at the city council meeting was Debbie Lee of Arizona, whose son Marc was the first Navy SEAL to die in the Iraq war. She demanded an apology from the council, and she said: My son gave up his life for you. Lee told the council, as she clutched his framed picture, ''I'm appalled at what you did,'' referring to the council's vote on Marine recruiters.

Debbie Parrish, another military mom whose son Victor is currently serving in Iraq, said to the Berkeley City Council:

> It is despicable what you said about our military. It is very, very sad. Shame on you.

After all the testimony from the military supporters and families, the Berkeley City Council could only muster the votes to not send a letter insulting the U.S. Marines by calling

them ''uninvited and unwelcomed intruders.'' Let's be clear. They did not apologize for the letter. They just didn't mail it. Of course, the sending of a letter at this point is inconsequential given that the text of the letter has been running on national television for a week. The city council also modified one of its past resolutions to ''recognize the recruiters' right to locate in our city and the right of others to protest or support their presence.''

But the resolution also stated that the city council opposes ''the recruitment of our young people into this war.''

The resolution proposing a formal apology to the Marines failed. The city council also voted to let four additional items passed at last week's meeting stand. One resolution encouraged all people to avoid cooperation with the Marine Corps recruiting station. A second one requested that the city attorney investigate if the Marines are in violation of Berkeley's policy against discrimination based on sexual orientation.

In addition, two resolutions giving the radical antiwar group Code Pink a weekly parking space and a weekly sound permit to protest the Marine recruiting station were upheld by the council's decision.

It was my hope that the city would apologize and revoke its previous resolutions and move on. The council chose not to do that. We have no choice but to acknowledge the reality of what they have done and to defend our military recruiters who are doing the job we asked them to do. If we don't take action, we will be sending a message to other towns or cities that they can use their power to try to influence U.S. foreign policy, thwarting our recruitment efforts.

This issue is not about free speech. It is about a city that has shown total disdain for our Armed Forces and used its official government powers to harass our military as they try to keep our country safe. And this amendment is not about forcing the city to change its mind. It is about whether we are going to shower the city with favors, with special goodies that do not meet national needs. I think the American people have spoken loudly and clearly that they do not believe that should be the case.

There is a video with clips of the city council meeting on YouTube. It has been viewed by over 200,000 people. It is the 70th most viewed video this week and the 11th most viewed video in news and politics, with 767 people posting comments overwhelmingly in support of the legislation. People are paying attention.

I am amazed at the response received regarding my public outrage over the city of Berkeley's behavior. My office has received thousands of calls and letters from military supporters all over the country. On Wednesday afternoon, I received a call from Sgt James Strowe of the U.S. Marine Corps. Sergeant Strowe is currently fighting to protect our freedom in Kuwait. Sergeant Strowe understands what the Marine recruiters in Berkeley are going through quite well because he served as a recruiter himself for 7 years. And he just told me his folks serving with him wanted to thank those of us who were standing up for them while they were fighting for our country.

After talking with the sergeant, I decided it would be a good idea to call the marines at the Berkeley recruiting station to ask how they were holding up amidst all the controversy. I talked to GSgt Rick O'Frente, who seemed to be taking the events in stride. He even said a number of citizens from Berkeley had come into the recruitment office, brought them food, and some had apologized for the actions of the council.

I guess I have said enough about all of what we are hearing. I have pages and pages of comments from people who are asking us to stand up for our marines while they are fighting for us, and we will be asking again for votes as part of the deliberations on this package.

Mr. President, now that I think the chairman has had a chance to understand in more detail what this bill is about, I will once again ask for the yeas and nays on my amendment and the Bingaman amendment.

The PRESIDING OFFICER. Is there objection to obtaining the yeas and nays on both amendments at the same time?

Mr. DORGAN. I object. I have not had a chance to visit with the Senator, and I will be glad to do so at some point.

The PRESIDING OFFICER. Objection is heard.

Mr. DEMINT. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 4023

Ms. MIKULSKI. Mr. President, I wish to speak on amendment No. 4023, a very important amendment that affects over 200,000 people in my State. I am not calling up the amendment right this moment, pending some other parliamentary action, but I do wish to speak on the amendment.

This is a bipartisan amendment sponsored by Senator KLOBUCHAR, who has taken a very impressive lead, as well as Senator COLEMAN. This bipartisan amendment is to stand up for constituents all over the United States of America who are severely disabled and who are about to lose their case managers.

Thousands and thousands and thousands of people—severely handicapped or disabled, both children and adults—are about to lose either their social workers or their nurses because of a new, harsh, punitive rule put out by the Centers for Medicaid and Medicare. The amendment does the same thing as Senate Bill 2578 that is sponsored by the Senators from Minnesota and myself and 17 others and would simply do this: It would stop the CMS from implementing the new rule by delaying its implementation until April 2009, when we have a new President and a new attitude.

Now, let me give the background. In December, CMS proposed this rule that would cut Medicaid funding to something called ''targeted case management'' services. The rule will go into effect March 3. That is why we are offering it on this very important bill of Indian health, and we thank the managers of the bill for their courtesy.

We hear all these government words, but I am going to talk today not only as the Senator from Maryland standing up for my constituents, but also as a professionally trained social worker. What is this? Well, a Medicaid case manager is either a social worker or a nurse who helps adults and children with very complicated problems. Children in foster care and children with disabilities get the medical and social services they need to be able to have a quality of life to be independent. But what does that mean in real terms? Well, let me give you an example.

I have a constituent in Baltimore, a 2-year-old, who was diagnosed with a genetic disorder that leads to significant feeding problems. This disease causes very severe problems and without help in early life. So what does the case manager do? If the case is a very complicated medical situation, often the case manager is a nurse. If it requires lots of complicated social intervention, it will be a social worker. First of all, the case manager gets in there and does a family assessment and works with the doctors, such as Johns Hopkins or the University of Maryland, so we know what medical plan is in order for this little child to have the ability to thrive. Then the case manager works with the family, who is in acute distress, to make sure they know someone is on their side and helps them comply with the treatment plan.

Now, what might that be? Well, in the genetic disorder case, it will be very specialized nutrition services. That is a lot of coordination to get the right people there to help that family. It will be also speech and language and occupational therapy, so a lot of compliance to make sure that child will be able to get what they need. Then, very important, psychosocial help because when a child has this type of disorder, there are other very severe psychosocial problems that emerge. Then the case manager is working with the family to get the child in the appropriate very specialized daycare. You can imagine the kind of supervision this is. This is tough, hands-on, gritty work.

Let's also take a look at when there is a child born with cerebral palsy. Again, you have a biomedical plan and the need to get the right education for the child and also assistance for the family on how to do it, then a lot of nitty-gritty work. In this case, the

child would be evaluated, say, at the fantastic Kennedy-Krieger Institute, where some of the best neurosurgeons and neuroscientists will be working with them. But the case manager helps get the family a wheelchair, a ramp for the home, special education services, and counseling for the parents because this is going to be a significant responsibility for a long time.

Without case management, the whole thing falls apart. If you don't get the right services for the family in the home and the educational programs, you will not have the follow through on the biomedical plan that helps them remain independent or able to grow up.

Now, CMS says they do not want to pay for that. They say they have the authority from the Deficit Reduction Act and they can just slash these services from Medicaid funding. Well, in my State, this affects 200,000 people. It means that over 1,400 social workers and nurses who have devoted their life to helping these families will be impacted, and it means a Governor will have to pick up the bill. In my State, these services cost $150 million, with 50 percent paid by the feds and the other 50 percent paid by the State.

CMS wants to eliminate the 50 percent, which means Maryland will lose $75 million. I know Senator KLOBUCHAR will tell us equally horrific stories. Senator COLEMAN has spoken about this. We object to CMS. We object to this rule. We want to delay the rule until sensible heads prevail.

We have 20 Senators who have cosponsored the bill that is the same as this Amendment. They have names such as CARDIN, CORKER, DOMENICI, BINGAMAN, ALEXANDER, VOINOVICH, BROWN, SNOWE, WYDEN, SANDERS, KENNEDY—the list goes on. Thirty States would be so affected they have taken it upon themselves to write directly to CSM.

I must say to the distinguished chairman of the Indian Affairs Committee, this also affects his State of North Dakota. It affects severely handicapped Native American children.

This is not about who is your favorite bean counter at OMB or how can we control runaway Medicaid costs; it is how do we in this country make sure our constituents and our people get the services they need to be able to have an independent life. I believe we can give help to those who are practicing self-help. For those families who are out there struggling to make sure a loved one with a handicap, a child, or an adult is able to remain independent, they need a government on their side.

So my amendment will delay the implementation. It is not my amendment, it is our amendment. It is a bipartisan amendment. I say to my colleagues from the other side of the aisle, let's be those compassionate conservatives whom you once talked about. Join with us. Let's do this.

At the appropriate time, I will call up this amendment officially, and I will ask for a vote on it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I rise to speak in strong support of amendment No. 4023. This is the amendment my friend, Senator MIKULSKI, just spoke about. It is a bipartisan amendment. Cosponsors are myself, Senator MIKULSKI, Senator COLEMAN, and many other Senators from across this country.

This amendment would stop the administration from making drastic changes to its targeted case management system that would hurt those in our country who are most in need of assistance.

Targeted case management benefits children in foster care, kids and adults battling mental illness, and seniors and disabled people receiving institutional care. It exists to help those individuals to navigate the complicated web of available services, to help these men, women, and children overcome bureaucratic barriers in order to achieve independence. These services include transporting people with disabilities to and from doctor's appointments as well as managing pharmacy services for individuals with severe mental illness. These essential services are now threatened by a proposed rule change from the Centers for Medicare and Medicaid Services.

For 8 years, I served as the chief prosecutor and top lawyer for Minnesota's largest county, serving Minneapolis and 45 suburban communities, with a population of over 1 million people. In that role, I worked closely with our county child protection and adult protection agencies, with our hospital, which was the biggest emergency hospital in the State of Minnesota. So I saw firsthand what would happen if we did not prevent people from getting in trouble, what would happen when they would end up at the emergency room or when they would end up in the jail because they were not getting the necessary mental health care they needed. I know firsthand the vulnerability of these individuals, young and old, and the responsibility of Government to help them achieve as much independence, well-being, and dignity as possible.

When Congress passed the Deficit Reduction Act in 2005, it clarified exactly what services are eligible for payment under the Targeted Case Management Program. Senator MIKULSKI went through those important services.

Unfortunately, the Centers for Medicare and Medicaid Services has since come up with a rule that goes miles and miles beyond what Congress intended. That rule is scheduled to be implemented next month. This impending rule will have a devastating fiscal impact on States and local communities. It will endanger the well-being of vulnerable people who benefit the most from these crucial services.

Our States received over $2 billion in funding for targeted case management in 2005. If this rule is put into effect, that funding will be slashed in 2008.

I want to use one example; it is from a county in my State, Dakota County. Now, this is not exactly a sort of wild-eyed county; it tends to be a more conservative county in our State. But, like any other county in our State, they have needs for case management services for people who are mentally ill, seniors, young kids who need help. This county has made a practice of developing a cost-effective, community-based system of services that relies heavily on case management. Why did they do it? Well, they did it to save money.

Medicaid funding has been key to developing service alternatives in homes and in less expensive settings than in institutional settings. This is the kind of innovative, cost-effective approach we want to encourage from Government. Instead, with this sudden rule change, they are being punished. Even worse, the vulnerable individuals they serve are being punished.

I always believed this was a country where we wrapped our arms around the people who need the help. That is what America is about. That is what patriotism is about. But with this rule slash-and-burn of all these services, they are not wrapping their arms around these people, they are rejecting them for Dakota County, this suburban county in Minnesota.

For States such as California, Colorado, Maryland, New Jersey, New York, and North Dakota, pulling the plug on targeted case management will disrupt the lives of those served by these cost-effective efforts. Furthermore, in the end, it will just increase the total costs borne by State, local and Federal governments, which means all of us as taxpayers also pay more. It simply defies common sense.

Our amendment will postpone the Center for Medicaid and Medicare Services' rulemaking by 1 year. We need a year to examine exactly how badly this will hurt our States and local governments, especially the children, the disabled, and the seniors who need these services most.

I occupy the Senate seat once held by Hubert Humphrey. Some of my colleagues had the great privilege of serving in the Senate with him. Hubert Humphrey was someone who, of course, was never at a loss for words. Many of those words were memorable.

There is one statement in particular that I believe is very appropriate for this topic. Senator Humphrey once said this:

> The moral test of Government is how that Government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadow of life, the needy, the sick, and the disabled.

I submit that this hasty, ill-considered action to cut essential services for the most vulnerable people fails that moral test of government. I believe we can and we must do better. That is why

I strongly support our bipartisan amendment, an amendment focused on saving money in the long term by keeping people in settings that actually save taxpayers money, by not slashing funds to the most vulnerable in our society. That is why we support this amendment, and we ask our colleagues to vote with us.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The second-degree DeMint amendment to the Senator's amendment.

AMENDMENT NO. 3894 WITHDRAWN

Mr. BINGAMAN. Mr. President, if it is in order, I will withdraw my underlying amendment.

The PRESIDING OFFICER. It is in order. The amendment is withdrawn.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

Ms. MIKULSKI. I now call up amendment 4023.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] for herself, Mr. COLEMAN, and Ms. KLOBUCHAR, proposes an amendment numbered 4023 to amendment No. 3899.

Ms. MIKULSKI. 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 temporarily delay application of proposed changes to Medicaid payment rules for case management and targeted case management services)

On page 397, after line 2, add the following:

SEC. 213. MORATORIUM ON IMPLEMENTATION OF CHANGES TO CASE MANAGEMENT AND TARGETED CASE MANAGEMENT PAYMENT REQUIREMENTS UNDER MEDICAID.

(a) MORATORIUM.—

(1) DELAYED IMPLEMENTATION OF DECEMBER 4, 2007, INTERIM FINAL RULE.—The interim final rule published on December 4, 2007, at pages 68,077 through 68,093 of volume 72 of the Federal Register (relating to parts 431, 440, and 441 of title 42 of the Code of Federal Regulations) shall not take effect before April 1, 2009.

(2) CONTINUATION OF 2007 PAYMENT POLICIES AND PRACTICES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy or practice, including a Medical Assistance Manual transmittal or issuance of a letter to State Medicaid directors) to restrict coverage or payment under title XIX of the Social Security Act for case management and targeted case management services if such action is more restrictive than the administrative action, policy, or practice that applies to coverage of, or payment for, such services under title XIX of the Social Security Act on December 3, 2007. Any such action taken by the Secretary of Health and Human Services during the period that begins on December 4, 2007, and ends on March 31, 2009, that is based in whole or in part on the interim final rule described in subsection (a) is null and void.

(b) INCLUSION OF MEDICARE PROVIDERS AND SUPPLIERS IN FEDERAL PAYMENT LEVY AND ADMINISTRATIVE OFFSET PROGRAM.—

(1) IN GENERAL.—Section 1874 of the Social Security Act (42 U.S.C. 1395kk) is amended by adding at the end the following new subsection:

''(d) INCLUSION OF MEDICARE PROVIDER AND SUPPLIER PAYMENTS IN FEDERAL PAYMENT LEVY PROGRAM.—

''(1) IN GENERAL.—The Centers for Medicare & Medicaid Services shall take all necessary steps to participate in the Federal Payment Levy Program under section 6331(h) of the Internal Revenue Code of 1986 as soon as possible and shall ensure that—

''(A) at least 50 percent of all payments under parts A and B are processed through such program beginning within 1 year after the date of the enactment of this section;

''(B) at least 75 percent of all payments under parts A and B are processed through such program beginning within 2 years after such date; and

''(C) all payments under parts A and B are processed through such program beginning not later than September 30, 2011.

''(2) ASSISTANCE.—The Financial Management Service and the Internal Revenue Service shall provide assistance to the Centers for Medicare & Medicaid Services to ensure that all payments described in paragraph (1) are included in the Federal Payment Levy Program by the deadlines specified in that subsection.''.

(2) APPLICATION OF ADMINISTRATIVE OFFSET PROVISIONS TO MEDICARE PROVIDER OR SUPPLIER PAYMENTS.—Section 3716 of title 31, United States Code, is amended—

(A) by inserting ''the Department of Health and Human Services,'' after ''United States Postal Service,'' in subsection (c)(1)(A); and

(B) by adding at the end of subsection (c)(3) the following new subparagraph:

''(D) This section shall apply to payments made after the date which is 90 days after the enactment of this subparagraph (or such earlier date as designated by the Secretary of Health and Human Services) with respect to claims or debts, and to amounts payable, under title XVIII of the Social Security Act.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Ms. MIKULSKI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Ms. MIKULSKI. I ask for a vote at an appropriate time.

Mr. DORGAN. 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. REID. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

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

Mr. REID. Mr. President, if there were ever a time and a piece of legislation where we should try to help the people whom this legislation is directed to help, it is this—Native Americans Indians. But that is not the case. For reasons I do not comprehend, we are not able to legislate on this most vital piece of legislation to an underclass in America that we created—Native Americans.

There is—I knew it—a stall going on in regard to this legislation. I understood the direction of the minority on FISA legislation. They wanted to stall it at the last minute so that the House would have no time to work on it. They accomplished that. But why on this? Why now, when we can legislate to try to help a group of people who badly need help? And the place they need help more than any other place is their ability to be taken care of when they are sick and injured.

Look what has happened in the State of Nevada. We used to have hospitals for Native Americans in Nevada. They are gone. They have been taken away over the years. The health care for Native Americans in Nevada is extremely limited. They are not served well.

We have an obligation—an obligation as a country—to help these people. This is our opportunity, after years, to legislate in that regard, and we are not going to do it. I am saddened to hear about this. I am saddened that the Republican minority is even filibustering Indians. What is this place coming to? Why are they doing this? There is no reason we cannot legislate here, offer amendments dealing with Native Americans. But that is where we are. I am very disappointed.

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

Mr. DORGAN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The legislative clerk continued with the call of the roll.

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

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

Mr. SANDERS. Madam President, I rise in strong support of the Indian health care package being put together by Senator DORGAN. As Senator REID indicated, these are a group of people who have been the most neglected in our country, and it is imperative we move rapidly to address longstanding concerns.

I have an amendment pending to provide $800 million in emergency funding for the LIHEAP program. The reason I am offering this amendment is simple and obvious. At a time when home heating fuel is skyrocketing, millions of senior citizens on fixed incomes, millions of low-income families with kids, and persons with disabilities are desperately trying to keep their homes

warm this winter. Without this additional source of immediate funding, there is a major risk that old people and lower income people all over America will go cold. In the richest country on the face of the Earth, we have a moral responsibility not to allow that.

Over the past week, as everybody knows, in many parts of America, temperatures have been going well below zero. In my State of Vermont, in Lincoln, VT, was 21 below zero. In Nome, AK, the high temperature was 15 below; Grand Forks, ND, 12 below zero; Eureka, SD, 3 below zero. On and on all across the country, temperatures are getting cold. The cost of home heating oil is outrageously high. LIHEAP funding is being depleted. People are unable to afford to keep their homes warm. That, in a nutshell, is what we are discussing.

The amendment I am offering has been endorsed by many organizations and many Members of the Senate. Some of the endorsees include the National Governors Association, the AARP, the National Conference of State Legislatures, many others. Let me briefly excerpt from a letter I received from the National Governors Association in support of the amendment:

> Additional funding distributed equitably under this amendment will support critically needed heating and cooling assistance to millions of our most vulnerable, including the elderly, disabled, and families that often have to choose between paying their heating or cooling bills and food, medicine and other essential needs.

That is from the National Governors Association. The AARP also has come out in support of the amendment, indicating that some of the most significant victims of what happens when it becomes cold are senior citizens who suffer from hypothermia. They are very much in support of this amendment, and we thank them for their support.

This bipartisan amendment is also cosponsored by many of my colleagues, including: Senators CLINTON, OBAMA, SNOWE, COLLINS, LEAHY, SUNUNU, KENNEDY, GORDON SMITH, COLEMAN, KERRY, STABENOW, SCHUMER, LAUTENBERG, LINCOLN, KLOBUCHAR, MURRAY, CANTWELL, MENENDEZ, DURBIN, and WHITEHOUSE. I thank them.

Yesterday, Senator GREGG offered a second-degree amendment to my amendment. In my view, his amendment is a poison pill which, if passed, would either kill or slow down all our efforts to increase emergency funding for LIHEAP. The Gregg amendment would pay for the $800 million increase in LIHEAP by cutting overall discretionary nondefense spending by about .2 of 1 percent. I am opposed to the Gregg amendment for a number of reasons. First, it is an extremely irresponsible way to do budgeting. There are some agencies that need to be cut a lot more than .2 of 1 percent. And there are, in fact, programs and agencies that need significantly more funding. An across-the-board cut, regardless of the needs of a program or agency, is irresponsible.

Secondly, Senator GREGG excludes from his cuts the department that receives over half the discretionary funding, and that is the Department of Defense. If Senator GREGG thinks all of the $500 billion-plus that goes to the Department of Defense is well spent and well accounted for, he is mistaken. You cannot exclude the largest recipient of discretionary funding from examination.

In the real world, what would be the impact of the Gregg amendment if it were to pass? I know that .2 of 1 percent may not seem like a lot of money at first blush, but let's take a look at what this cut would mean. It would mean a $54 million cut for veterans medical care, and overall veterans funding would be reduced by $86 million. I don't think any Member of the Senate supports that. While we are trying to fight and come up with an understanding of various cancers, Alzheimer's disease, Parkinson's disease, the National Institutes of Health would be cut by over $58 million by the Gregg amendment. The Gregg amendment would cut special education by $22 million. People are paying higher and higher property taxes because this Congress, for many years, has not kept the promise it made by adequately funding special education. The Gregg amendment would cut funding for special ed by some $22 million. Head Start would be cut by $14 million. We are grossly underfunding Head Start right now. We have a major early education crisis from one end of America to the other. This would only make that problem worse. The Gregg amendment would cut community health centers by over $4 million at a time when 47 million Americans have no health insurance, creating a process by which even fewer Americans can access primary health care. Homeland security would receive a cut of $70 million. Education would be cut by over $100 million.

I certainly share Senator GREGG's concerns about the national debt. I look forward to working with him and other members of the Budget Committee to discuss how we should reduce our $9.2 trillion national debt, which increased by $3 trillion under President Bush. It is a real issue, one we have to get a handle on. But maybe we will discuss in the Budget Committee the absurdity of trying to eliminate the estate tax which would add $1 trillion to our national debt over 20 years by giving tax breaks exclusively to the wealthiest .3 of 1 percent.

We are debating whether we should help senior citizens who are going cold this winter. But there are many, including the President, who say: No problem, a trillion dollars in tax relief for the wealthiest .3 of 1 percent.

We should be discussing why we are providing other tax breaks to some of the wealthiest people in this country. Perhaps we can discuss the appropriateness of spending $12 billion a month on the war in Iraq, with most of that sum being budgeted as emergency spending. It is not an emergency. We know what is going on. Yet we are not prepared to pay for the war. We are leaving that cost to our kids and grandchildren. That is emergency spending. We can pass that $12 billion a month. Yet there are those who balk at spending $800 million on a real emergency, and that is keeping senior citizens and families all over America warm this winter.

Providing a mere $800 million for LIHEAP would primarily benefit senior citizens, families with children, and people with disabilities earning between $10 and $15,000 a year. At a time when gasoline and home heating oil prices in the State of Vermont and throughout the country are well above $3 a gallon, we should not be forcing seniors and others to make a choice about whether they are going to buy the medicine or food they need—hunger is increasing—or keep warm this winter.

There is no great secret that the American people are increasingly disenchanted with what is going on in Washington, whether in the White House or in Congress. They wonder what planet we are living on. They are struggling, millions, every single day to keep their heads above water to pay for the food they need, to fill up their gas tanks in order to go to work, to keep warm in the winter. They wonder why we are not responding to their needs. We have people here talking about more tax breaks for billionaires, when workers are losing their jobs.

Passing the Sanders amendment certainly is not going to solve all those problems.

But maybe at a time when people are going cold and others know that people are going cold, maybe—maybe—it will make the American people understand some of us are aware of the reality of American life as it exists in cities and towns all across this country, that maybe we know what is going on, and we are prepared to respond in a proper way.

Madam President, having said that, I ask unanimous consent that the Senate now resume the Gregg amendment No. 4022 and that it be modified to be a first-degree amendments and that the Senate then debate concurrently amendments No. 3900 and No. 4022, as modified, with 40 minutes of debate prior to a vote in relation to each amendment, with the time equally divided and controlled between Senator SANDERS and Senator GREGG or their designees; that each amendment be subject to a 60-affirmative vote threshold, and that if the amendment does not achieve that threshold, it be withdrawn; that if either amendment achieves 60 affirmative votes, then the amendment be agreed to and the motion to reconsider be laid upon the table; that the vote in relation to the Gregg amendment No. 4022, as modified, occur first in the sequence and

that there be 2 minutes of debate, equally divided, prior to each vote; provided further that no intervening amendment be in order to either amendment; that upon the use or yielding back of time, the Senate proceed to vote in relation to the Gregg amendment, to be followed by a vote in relation to the Sanders amendment.

The PRESIDING OFFICER. Is there objection?

Ms. MURKOWSKI. Madam President, reserving the right to object—and I will object—I am certainly a supporter of LIHEAP, but I object at this time.

The PRESIDING OFFICER. Objection is heard.

The Senator from Vermont.

Mr. SANDERS. Madam President, I am kind of new to the Senate, but I would ask my friend from Alaska or my friend from New Hampshire: Why? Why the objection? If we are sympathetic to LIHEAP——

The PRESIDING OFFICER. To the Senator from Vermont, it is not in order to propound questions to other Senators who do not have the floor.

Mr. SANDERS. Madam President, I wonder why it would be that when we face a dire crisis all across this country, we cannot move forward vigorously in providing relief to seniors and low-income people who need this help. I would love to have a response to that, Madam President.

Mr. GREGG. Madam President, is the Senator yielding the floor?

Mr. SANDERS. Madam President, I yield to my friend from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, obviously, I have an amendment which is caught up in this effort. I would hope we could vote on it. I think it is the right approach that we fund LIHEAP but that we also pay for that funding so we do not pass the bill for LIHEAP on to our children, so we do not put ourselves in a position where we are paying today's energy bills with our children's dollars 10 years from now, plus interest.

But I understand, having heard the majority leader come to the floor earlier and say he did not want this bill filibustered or slowed down, that this is sort of part of an exercise by the leaders of this bill on this bill—because this is the Indian health bill—to try to, I guess, clear the table so amendments which are not directly relevant to Indian health do not end up slowing down this bill.

I do not think this decision can be laid at the feet of either party. It appears it is a joint decision by the leadership of the committee of jurisdiction on Indian health. That is why this proposal, which Senator SANDERS has laid out, which I am perfectly amenable to—and I would actually support the unanimous consent request that he propounded. It has been objected to.

I understand an amendment from our side dealing with the fact that the city of Berkeley has said the Marines there are unwelcome and has offered protesters a free parking site in front of the Marine recruiting headquarters, with a megaphone to yell at the marines—men and woman who have served us in war in Iraq—that proposal, which would have basically laid out the objection of the Senate to that despicable act by the city council in Berkeley relative to the treatment of our marines, is also not going to probably be offered because there is an attempt to move this bill forward.

I guess I appreciate the fact that the Indian health bill is a good—I don't know if it is a good bill; I don't know enough about it, but it appears to be supported by both sides here, and they want to move it forward. It is unfortunate the LIHEAP issue, which I think should be addressed in the context I am proposing, which is that it be paid for, will not be able to be addressed at this time. But I understand the situation, and I understand why it has happened. But I do not think it can be laid at the feet of either party.

Mr. SANDERS. Madam President, reclaiming my time, to the best of my knowledge, I heard the objection coming from the Republican side, not the Democratic side.

Mr. GREGG. Madam President, if I may seek the floor, I think it is pretty obvious what is happening. I want the RECORD to show that prior to the objection being made—it is not my fight—but as a practical matter, the majority leader came to the floor and castigated the fact that the bill was being slowed down by amendments, one of which would be the LIHEAP amendment.

Mr. SANDERS. Madam President, reclaiming my time, it is absolutely not my intention, as I indicated to Senator DORGAN, to slow this down. This is important legislation we want to pass. I would limit my time to 20 minutes, to 10 minutes. I think most people here know what the issue is. I would like an up-or-down vote, and let's move on to Indian health.

Mr. GREGG. Madam President, if the Senator is going to allow the bill to be open to LIHEAP, then I presume it should be open to all extraneous amendments. I suspect the amendment of the Senator from South Carolina relative to the city of Berkeley is an extraneous amendment but one that is worth debating and should be discussed.

Mr. KYL. Madam President, will the Senator from Vermont yield?

Mr. SANDERS. Yes, I yield.

The PRESIDING OFFICER. The Senator from Vermont yields to the Senator from Arizona.

Mr. KYL. I thank the Senator.

Madam President, if I could further explain, first of all, I appreciate that the Senator from Vermont has offered an amendment that is very important to his State. It is not germane to the Indian health bill. I also understand how both Senators from New Hampshire are supportive of the LIHEAP approach. Whether it is paid for or not paid for is another question. But the point is, that amendment is not germane to the Indian health bill, and if there is a vote on the LIHEAP amendment, the amendment of the Senator from Vermont, there will be requests, I know, from this side of the aisle and perhaps other requests to consider other nongermane amendments to the bill.

I think what the majority leader was saying is something that I subscribe to on this side, which is that the Indian health bill is an important bill to get done. If we begin consideration of a lot of extraneous or nongermane amendments to the Indian health bill, it may well jeopardize our ability to conclude work on the Indian health bill. That is the only reason for the objection, and I hope the Senator can appreciate that.

Mr. SANDERS. Reclaiming my time, Madam President, I would ask my friend from Arizona—and I understand that. We want to move to the Indian health bill. There is a real solution to that in the real world if we are serious; that is, limiting the amount of time and reaching a unanimous consent agreement about a few amendments that might be offered so we can vote on them and move on to Indian health.

Would the Senator from Arizona be prepared to do that?

Mr. KYL. Madam President, I would be happy to respond to the Senator from Vermont but in this way: There are people on my side of the aisle who have already attempted to propound nongermane amendments that they would like to have a time agreement on as well. I suspect that before we begin to get into that kind of a negotiation, the leaders will want to consider what that is going to be doing to the time schedule for the bill, and the managers of bill are going to want to do the same because we would like to try to conclude the bill as soon as we can; and that will open up a process that could delay matters.

Mr. SANDERS. Reclaiming my time, Madam President, I think, again, we want to move and pass, I hope, the Indian health bill. But I think if we are honest—obviously, if people want to bring up 30 amendments, that would kill the Indian health bill, but if that is not the desire, if there are very few amendments and leadership can agree on a time limit on them, we can move forward on some serious amendments, have votes, and pass—at least vote on—the Indian health bill.

Again, I ask my friend from Arizona if that is something he would entertain. It does mean that not everybody can offer every amendment they want. There would have to be a limitation and a time limitation.

Mr. KYL. Madam President, I will respond again to the Senator from Vermont: There are nongermane amendments—at least one of which has already been brought up—that I doubt the leaders and certainly the managers of the bill would like to see embroiled

into the Indian health care debate. Once the process begins, it is hard to control it. So it is not as simple as asking, would I be agreeable to a time agreement on perhaps the amendment of the Senator from Vermont and the amendment of the Senator from South Carolina—because that would undoubtedly get brought into this. But there may be others as well.

So it is not a question we can answer when one cannot see where the end of it might be. I think that is the concern we have with beginning this kind of process. But I suggest that the Senator from Vermont continue to consult with his leader, with the managers of the bill, and see if we can move the process forward.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, it is more than a little frustrating. We have been here for 3 hours this morning. We have amendments on this bill dealing with Indian health care. We have nongermane amendments that have been offered: Medicare, LIHEAP, earmarks for Berkeley, abortion.

This is a very serious issue. We have people dying in this country with respect to this health care question about American Indians. I spoke earlier this morning that the U.S. Government has a responsibility for health care for Indians. If you ask the question: Why? Because we signed up for it. We signed the treaties. We said: We promise, and we have a trust responsibility for it.

So we spend twice as much money to provide health care to Federal prisoners as we do for American Indians. We are not meeting the needs. We have people dying. So it takes 10 years to get a bill to the floor of the Senate—10 years to get a bill to the floor—to try to improve health care for Indians, and we get here, and we have unending appetites for amendments that have nothing to do with Indian health.

Look, I support low-income energy assistance. I support that. I support a lot of these issues. Many of them have nothing to do with Indian health. We are just trying to get a bill passed here.

Let me describe something I heard about a month ago to describe the urgency. I was at the Standing Rock Indian Reservation in North Dakota. It straddles the North Dakota-South Dakota border. The husband of Harriet Archambault came to a meeting I had—a listening session on Indian health care—and he described his wife Harriet and her battle to try to deal with this health care dilemma. They lived nearly 20 miles from a clinic in South Dakota. It was an Indian health care clinic. She would get up in the morning and drive 18 miles to the clinic because that clinic can take only 10 people in the morning and 10 people in the afternoon. So five times, she got up in the morning to drive to that clinic. All five times she got there, there were 10 people ahead of her.

Her medicine ran out on October 25, 2007, her husband said. Five times for the next month, she got up and drove to that clinic. She could not stay there, because she was also a day care provider for her grandchildren. So this woman went, tried to sign up, but there were 10 people ahead of her—that is all they would take—and she had to go home.

Five times she did that in a month. A month later, she died. Her medicine ran out October 25. She died November 25. She had called her sister about 3 weeks before, and she said: ''What do I have to do here to get the medicine I need? Die?'' Well, she did die because she could not get service in this Indian health system.

The fact is, people are dying. All we are asking is that we maybe have somebody come over and offer an amendment on Indian health care and start a debate on these amendments. If we have people who have these amendments, come over and offer them. We have some that are filed. Let's have some votes and try to get through this piece of legislation.

This is the third day we are on the floor of the Senate with this bill. I said earlier, it has taken 10 years to get here. Every single year we have worked on this. Senator MCCAIN, who was chairman of the Indian Affairs Committee, worked on it with me—Senator MURKOWSKI. We work on it and never get it to the floor. We finally get it to the floor of the Senate, and this is like a root canal, except a root canal hurts less, because at least you are accomplishing something.

Here we come to the floor of the Senate, and we cannot get amendments up. We cannot get amendments voted on. So my hope would be we can find a way to move through this legislation.

Mr. SANDERS. Madam President, will the Senator yield?

Mr. DORGAN. Madam President, I am happy to yield for a question.

Mr. SANDERS. Madam President, I thank my friend from North Dakota.

AMENDMENT NO. 3900 WITHDRAWN

Madam President, I ask for the regular order with respect to the Sanders amendment No. 3900.

The PRESIDING OFFICER. Does the Senator from North Dakota yield for that purpose?

Mr. DORGAN. Madam President, I yield for that purpose. I believe I understand what the Senator from Vermont is doing.

The PRESIDING OFFICER. The amendment is now pending.

Mr. SANDERS. Madam President, given the objection, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DORGAN. Madam President, let me say to the Senator from Vermont, I understand his passion. He knows I have a lot of passion about this bill, and I have expressed it this morning. I understand his passion about LIHEAP. Somebody from Vermont does not have to tell somebody from North Dakota about cold weather. I know about cold weather and my constituents do. LIHEAP is unbelievably important, and we need to find a way to get the money out for LIHEAP. I understand that. I am very sorry he was unable to get the yeas and nays and so on. But he also understands you have to try to offer amendments where you can to authorization bills. I understand that. He is a supporter of this bill, the underlying Indian health care bill we need to get done. It is also the case, I am sure, that the Senator from Alaska knows a little about cold weather. I have been to Alaska. So my hope is that working together in this Chamber we will fund the LIHEAP program, because it is very important. That also can be life or death for people, so my hope is we can get that done.

But having said all of that, again let me say we have a managers' package that perfects—after having negotiated now for several weeks on about five or six very controversial issues, we have negotiated in a way that we have reached a compromise on all of them, satisfactory to all of the parties. We now have that in a managers' package which we intend to offer next. It has not yet cleared. It has been a couple of hours since we have been able to clear that. My hope is that in the next 30 minutes or so we can clear that so at least we can get the managers' package done.

I believe Senator COBURN will be here. He has some amendments filed. I hope he will be here to call up amendments which I believe he will do reasonably soon, and I think Senator TESTER wishes to speak on the bill generally.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

AMENDMENT NO. 3906 TO AMENDMENT NO. 3899

Ms. MURKOWSKI. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 3906. This is the amendment of Senator MARTINEZ of Florida. I ask that it be made the pending amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Ms. MURKOWSKI], for Mr. MARTINEZ, proposes an amendment numbered 3906.

Ms. MURKOWSKI. Madam 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 titles XI and XVIII of the Social Security Act to provide increased civil and criminal penalties for acts involving fraud and abuse under the Medicare program and to increase the amount of the surety bond required for suppliers of durable medical equipment)

At the end of title II, add the following:

SEC. _____. INCREASED CIVIL MONEY PENALTIES AND CRIMINAL FINES FOR MEDICARE FRAUD AND ABUSE.

(a) INCREASED CIVIL MONEY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended—

(1) in subsection (a), in the flush matter following paragraph (7)—

(A) by striking ''$10,000'' each place it appears and inserting ''$20,000'';

(B) by striking ''$15,000'' and inserting ''$30,000''; and

(C) by striking ''$50,000'' and inserting ''$100,000''; and

(2) in subsection (b)—

(A) in paragraph (1), in the flush matter following subparagraph (B), by striking ''$2,000'' and inserting ''$4,000'';

(B) in paragraph (2), by striking ''$2,000'' and inserting ''$4,000''; and

(C) in paragraph (3)(A)(i), by striking ''$5,000'' and inserting ''$10,000''.

(b) INCREASED CRIMINAL FINES.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended—

(1) in subsection (a), in the flush matter following paragraph (6)—

(A) by striking ''$25,000'' and inserting ''$100,000''; and

(B) by striking ''$10,000'' and inserting ''$20,000'';

(2) in subsection (b)—

(A) in paragraph (1), in the flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000''; and

(B) in paragraph (2), in the flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000'';

(3) in subsection (c), by striking ''$25,000'' and inserting ''$100,000'';

(4) in subsection (d), in the second flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000''; and

(5) in subsection (e), by striking ''$2,000'' and inserting ''$4,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to civil money penalties and fines imposed for actions taken on or after the date of enactment of this Act.

SEC. _____. INCREASED SENTENCES FOR FELONIES INVOLVING MEDICARE FRAUD AND ABUSE.

(a) FALSE STATEMENTS AND REPRESENTATIONS.—Section 1128B(a) of the Social Security Act (42 U.S.C. 1320a–7b(a)) is amended, in clause (i) of the flush matter following paragraph (6), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(b) ANTI-KICKBACK.—Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) is amended—

(1) in paragraph (1), in the flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''; and

(2) in paragraph (2), in the flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(c) FALSE STATEMENT OR REPRESENTATION WITH RESPECT TO CONDITIONS OR OPERATIONS OF FACILITIES.—Section 1128B(c) of the Social Security Act (42 U.S.C. 1320a–7b(c)) is amended by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(d) EXCESS CHARGES.—Section 1128B(d) of the Social Security Act (42 U.S.C. 1320a–7b(d)) is amended, in the second flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to criminal penalties imposed for actions taken on or after the date of enactment of this Act.

SEC. _____. INCREASED SURETY BOND REQUIREMENT FOR SUPPLIERS OF DME.

(a) IN GENERAL.—Section 1834(a)(16)(B) of the Social Security Act (42 U.S.C. 1395m(a)(16)(B)) is amended by striking ''$50,000'' and inserting ''$500,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the issuance (or renewal) of a provider number for a supplier of durable medical equipment on or after the date of enactment of this Act.

Ms. MURKOWSKI. Madam President, we understand that Senator MARTINEZ will come to the floor to speak to this amendment that relates to civil and criminal penalties for Medicare fraud, but I did want to get that rolling.

I understand Senator TESTER has some comments he wishes to make at this time regarding the Indian Health Care Improvement Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. TESTER. Madam President, I thank the ranking member of the committee.

Today I rise in strong support of the Indian health care program. The reason this bill is on the floor right now is due to the hard work of our chairman and ranking member which has been exhibited here in the last few minutes. They know how important this bill is. I express my appreciation to Senator DORGAN and Senator MURKOWSKI for all of their hard work.

Since arriving in Washington a little more than a year ago, I have been meeting with leaders throughout Indian country, and one aspect is clear: The challenges that face Indian country are large. I tell tribal leaders that despite all of the good intentions, there is no way Congress can solve all of their problems this year.

As I began my tenure on the Indian Affairs Committee, I asked my friends in Indian country to share with me their top priorities. I have met with representatives and leaders from each of the seven reservations in Montana multiple times, and every time they point out to me that the most important issue is health care or the lack of it.

Why is it such a priority? Let's consider a few examples.

Now 5 years old, a small girl from the Crow tribe was diagnosed with a rare form of cancer in her eye. The condition required that her right eye be surgically removed. When doctors originally removed it in October of 2001, they fitted her with a prosthetic eye with the understanding that every few years, she would need a new prosthesis as she grew. Because doctors had already taken her eye, and because the wrong size prosthetic eye wouldn't immediately threaten her life when she needed a new eye, her case failed to meet medical priority criteria for contract Indian Health Services, which is life or limb. Her family was left with two options: She goes without the new prosthesis, leading to permanent disfigurement or raise $3,000, which is not an easy task for a struggling family on Montana's economically depressed reservations.

Here is another example of the critical needs of the Indian health care system. A 35-year-old Montana woman was diagnosed with a heart condition that led to dramatic heart failure. Her heart lost its ability to pump blood adequately and she could hardly move without becoming short of breath. She needed a new heart. She was referred to the Mayo Clinic where she received special cardiology care and was put on a list for a heart transplant. Thanks to close monitoring and the use of many medications and a permanent pacemaker, her condition stabilized and her ability to function improved a bit. However, due to lack of funding in the Indian Health Service, her ongoing visits with the cardiologist, not to mention the heart transplant, were no longer covered. Without this followup, her prospects for survival are grim.

I could go on and on. There are thousands of examples of how the Indian health care system has failed.

After I asked tribal folks about their priorities, I asked what we can do in the Senate to improve Indian health care. The response is unanimous and overwhelming. They tell me to start with the reauthorization of the Indian Health Care Improvement Act, and do it now.

This reauthorization is long overdue. The last comprehensive authorization of the Indian Health Care Improvement Act was 16 years ago, in 1992. The disparity in the quality of health care provided to Native Americans is real, and it is disturbing. The Indian Health Service, or IHS, reports that members of the 560 federally recognized American Indian and Alaska Native tribes and their descendants are eligible for IHS services. This agency, within the Department of Health and Human Services, is supposed to provide comprehensive health care for approximately 1.8 million of the Nation's estimated 3.3 million American Indians and Alaska Natives. Its annual appropriation is $3 billion—$3 billion. Keep that number in mind as we consider the facts:

Approximately 55 percent of American Indians and Alaska Natives living in the United States rely on IHS to provide access to health services in 49 hospitals and nearly 600 other facilities. American Indians and Alaska Natives die at higher rates from a myriad of things more than regular Americans do: tuberculosis, 600 percent higher; diabetes, nearly 200 percent higher; and the list goes on and on and on.

American Indians and Alaska Natives born today have a life expectancy that is lower than all other races in the

United States. This lower life expectancy is due, in part, to the disproportionate disease burden that exists in Indian country.

It is suggested that the IHS-appropriated funding provides 55 percent of the necessary Federal funding to assure mainstream personal health care services to American Indians and Alaska Natives. Let me repeat that: IHS provides only 55 percent of the funding necessary to meet the health care needs of American Indians and Alaska Natives in that IHS system. So now you can see why passing this bill is so critically important to improving health care in Indian country.

This legislation will help the Indian Health Service facilities become up to date. It will create programs to address behavioral and mental health issues that have been severely neglected. It will begin to address the disturbing disparities between the health status of American Indians and the general U.S. population. This legislation authorizes appropriations necessary to increase the availability of health care, develop new approaches to health care delivery, improve the flexibility of the Indian health care service, and promote the sovereignty of American Indian tribes.

Now we must start funding Indian health care at levels authorized in this bill. Don't think that failing to adequately fund Indian health care is a budget savings. Without proper funding of this program, the cost will shift to our emergency rooms and our already overburdened hospitals. Make no mistake about it, we will all pay for the health care of our citizens, but we will pay a premium if we choose not to do the right thing today and fully fund this program.

There is another reason why we need to pass this bill. The Federal Government has a trust responsibility to Native American Indians, a legally binding trust responsibility. As many in this body know, this bill has made it to the Senate floor in previous years and failed. The managers of this bill this year have addressed a few remaining concerns and we have another chance to pass it today. The bill before us is not perfect, but it represents a good compromise bill. At the end of the day, this legislation represents an historic opportunity to make an incredible difference in the lives of Americans who need it most.

This problem will not go away without our action. The longer we wait, the worse the problem becomes. The longer we wait, the more expensive the problem becomes. By passing this important bill, we take a critical step toward improving Indian health care and thus fulfilling our trust responsibility to American Indians.

I hope this bill passes and passes quickly today. I hope it doesn't get bogged down in amendments that are important but have no connection to Indian health care. I ask my comrades here in the Senate to vote yes for this critical legislation.

I yield the floor.

Mr. DORGAN. Madam President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 3906, AS MODIFIED

Ms. MURKOWSKI. Madam President, I ask unanimous consent to send to the desk a modification to Martinez amendment No. 3906. With this modification, the surety bond amount is reduced to better effectuate the intent of the act.

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

The amendment is so modified.

The amendment, as modified, is as follows:

At the end of title II, add the following:

SEC. ___. INCREASED CIVIL MONEY PENALTIES AND CRIMINAL FINES FOR MEDICARE FRAUD AND ABUSE.

(a) INCREASED CIVIL MONEY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended—

(1) in subsection (a), in the flush matter following paragraph (7)—

(A) by striking ''$10,000'' each place it appears and inserting ''$20,000'';

(B) by striking ''$15,000'' and inserting ''$30,000''; and

(C) by striking ''$50,000'' and inserting ''$100,000''; and

(2) in subsection (b)—

(A) in paragraph (1), in the flush matter following subparagraph (B), by striking ''$2,000'' and inserting ''$4,000'';

(B) in paragraph (2), by striking ''$2,000'' and inserting ''$4,000''; and

(C) in paragraph (3)(A)(i), by striking ''$5,000'' and inserting ''$10,000''.

(b) INCREASED CRIMINAL FINES.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended—

(1) in subsection (a), in the flush matter following paragraph (6)—

(A) by striking ''$25,000'' and inserting ''$100,000''; and

(B) by striking ''$10,000'' and inserting ''$20,000'';

(2) in subsection (b)—

(A) in paragraph (1), in the flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000''; and

(B) in paragraph (2), in the flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000'';

(3) in subsection (c), by striking ''$25,000'' and inserting ''$100,000'';

(4) in subsection (d), in the second flush matter following subparagraph (B), by striking ''$25,000'' and inserting ''$100,000''; and

(5) in subsection (e), by striking ''$2,000'' and inserting ''$4,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to civil money penalties and fines imposed for actions taken on or after the date of enactment of this Act.

SEC. ___. INCREASED SENTENCES FOR FELONIES INVOLVING MEDICARE FRAUD AND ABUSE.

(a) FALSE STATEMENTS AND REPRESENTATIONS.—Section 1128B(a) of the Social Security Act (42 U.S.C. 1320a–7b(a)) is amended, in clause (i) of the flush matter following paragraph (6), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(b) ANTI-KICKBACK.—Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) is amended—

(1) in paragraph (1), in the flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''; and

(2) in paragraph (2), in the flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(c) FALSE STATEMENT OR REPRESENTATION WITH RESPECT TO CONDITIONS OR OPERATIONS OF FACILITIES.—Section 1128B(c) of the Social Security Act (42 U.S.C. 1320a–7b(c)) is amended by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(d) EXCESS CHARGES.—Section 1128B(d) of the Social Security Act (42 U.S.C. 1320a–7b(d)) is amended, in the second flush matter following subparagraph (B), by striking ''not more than 5 years'' and inserting ''not more than 10 years''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to criminal penalties imposed for actions taken on or after the date of enactment of this Act.

Ms. MURKOWSKI. Madam 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. CORNYN. 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. CORNYN. Madam President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

FOREIGN INTELLIGENCE SURVEILLANCE ACT

Mr. CORNYN. Madam President, I come to the floor to express grave concern at reports that I hear out of the House of Representatives that they intend to adjourn and basically go on vacation for the next week or so without taking action on the Foreign Intelligence Surveillance Act reauthorization. That, of course, is the legislation we passed out of the Senate that provides the eyes and the ears for the intelligence community in the United States to detect and to deter future terrorist attacks against the United States.

To me, it is unthinkable that the House of Representatives would adjourn and be so irresponsible as to leave this unfinished business undone and to leave America unprotected against future terrorist attacks. I know there is an argument that existing surveillance could be continued for up to a year. But what we are talking about is new contacts, new information that the intelligence community gets that would be impeded, impaired, and blocked by the failure of the House of Representatives to act on this critical piece of legislation that will expire on February 15 unless they act today or tomorrow. So it is the height of irresponsibility. I find myself questioning whether it could possibly be true that would happen.

Also, one important part of the Senate legislation was to provide protection for the telecommunications carriers that may have cooperated with the U.S. Government shortly after September 11, 2001, in providing the means to listen in to al-Qaida and other foreign terrorists who were plotting and planning attacks against the United States and its citizens.

I think it is a terrible message from the House of Representatives, if they are not going to act in a way that provides protection for those citizens, whether they be individual citizens or corporate citizens, who are asked by their country to come to the aid of the American people and provide the means to protect them from terrorist attacks. What kind of message does that send, that we are going to basically leave them out twisting slowly in the wind and being left to the litigation—some 40 different lawsuits that have been filed against the telecommunications industry that may have cooperated with the Federal Government in protecting the American people. This is on a request at the highest levels, from the Commander in Chief, and upon a certification by the chief law enforcement officer of the United States, the Attorney General.

What they were being asked to do was entirely appropriate and within the bounds of the law. But then, when the litigation ensues, to basically leave them hanging out to dry would be wrong. The Senate wisely addressed that issue. But if the House adjourns without passing the Senate version of the reauthorization of the Foreign Intelligence Surveillance Act, which includes protection for the telecommunications industry that may have participated in this lawful exercise of our powers to protect our country, it would again be the height of irresponsibility and send the message that next time a citizen, whether it is a corporate or individual citizen, is asked to come to the aid of their country, you better think twice and consult your lawyers because you are going to get sued and the Congress is not going to take appropriate measures to make sure those who helped protect the safety and security of the American public are protected.

Finally, I don't have the information in front of me right now, but there are substantial news reports that indicate that a group of trial lawyers who stand to make considerable amounts of money in terms of legal fees off this litigation are substantial contributors to Members of Congress. I hope the evidence does not develop that there are decisions being made in the House of Representatives on the basis of the interests of special interest groups such as trial lawyers who stand to gain financially from continuing this litigation that should be brought to an end here and now.

I am here primarily to voice my grave concern that while the Senate has acted responsibly—I know not everybody is happy with the outcome—to address this issue, if the House of Representatives leaves town and leaves this matter undone, the security of the American people is in peril, and it would be a tragedy indeed if something were to happen as a result of our intelligence community being blind or deaf to the dangers that do work both within our shores and beyond.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, let me say, I don't think anybody in the Congress, the Senate, or the House wishes our intelligence community to be blind or deaf. Obviously, we have a process in this country with the FISA Court that allows emergency actions. The opportunity to be able to engage in surveillance and the appropriate surveillance to make sure we are listening to terrorists and all of those things are available.

There is a debate about how wide should the drift net be, that the administration might want to gather almost every communication everywhere in the world and data mine to find out who is saying what. That is an important conversation because it deals with the basic rights in our Constitution. I think there is no one in this Chamber or in the other who believes we want our intelligence community to be blind or deaf and to not have the opportunity to do the kind of surveillance necessary to protect our country. That is very important to state.

Madam President, we are not in morning business, although we are doing some morning business. We are on the piece of legislation that we reported out of the Indian Affairs Committee, dealing with Indian health care improvement. I have always been enormously proud to serve in this body. I am privileged and proud to serve. I have occasionally told friends that the Senate is 100 bad habits—that includes myself, of course. We are not doing anything at the moment, I understand, because one Senator is downtown someplace, giving speeches, and the instruction is that nothing is to be done while that Senator is gone. Good for that Senator, but I don't think this place ought to come to a stop because somebody decides they are going to be gone for 2 or 3 hours, so they want others to object to everything on their behalf. That is, in my judgment, discourteous, and my hope is that the Senate could do a little business today on something that is urgent. That is not too much to ask for the Senate to perhaps consider legislation that is before it. We are now on the third day of the Indian Health Care Improvement Act, a very urgent and serious matter. This is the third day. We have been here for over 3 hours today, and we have had amendments on all kinds of issues, except issues that deal with this legislation.

Even just attempting to offer the managers' package, which has been negotiated over the last month or so, in which we successfully negotiated on about five or six very controversial issues—we negotiated an agreement between the sides, and even being able to offer that at this point is denied because someone who is not even on the Hill told their staff to tell others that the leadership cannot allow this. It is unbelievable to me.

One might expect, perhaps, that today we can make progress on this legislation. Everybody puts on a blue suit and shined shoes and comes to work, and one might expect we can get something done for a change. We will have additional morning business, and we will see if those who have left the Hill and want the entire world to stop and wait for their whims will show up at some point and maybe we can consider some amendments. I hope that will be the case.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Madam President, I ask unanimous consent to address the Senate up to 10 minutes in morning business.

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

RURAL REPORT CARD

Mr. BROWN. This past week, President Bush submitted to Congress his last budget for the Federal Government. It is a revealing document that pretty clearly demonstrates the priorities of this administration. It used to be that budgets were designed to rein in the Federal deficit. Under this administration, budget after budget has been submitted that would, if enacted, widen the deficit.

We know 7 years ago, when President Bush took the oath of office in January 2001, we had a huge Federal surplus. Today, we have a huge Federal deficit that will be a burden on the backs of our children and grandchildren.

While funding for programs to help middle-class families hard hit by stagnant wages would be slashed by the President's budget, he gives enormous tax cuts to people who don't need them—and generally didn't ask for them—the wealthiest 1 percent of the population. They simply don't need a tax cut.

In 2009, the President will give tax cuts of $51 billion to those people making over $1 million a year—again, that is $51 billion for those making over $1 million a year. Yet he is cutting $15 billion from many of the programs that I am going to mention.

Perhaps most disconcerting are the President's cuts in Federal programs that serve rural America. The President has failing grades on his budget and what it does. He gets an F in health care, an F in education, an F in law enforcement, and an F in economic development. With faltering infrastructure, such as roads and bridges, disappearing jobs, underfunded schools, and spotty access to health care, rural areas in Ohio, southeast Ohio—and

northwest Ohio especially—and across our Nation, these areas are fighting an uphill battle without anywhere near the Federal support they used to get or that they need now.

More than one-half of Ohio's counties are rural as defined by the U.S. Department of Agriculture. Of the top 10 counties in Ohio—and there are 88 counties—with the highest unemployment, every 1 of them is rural. Of the top 10 counties in Ohio with the highest proportion below the poverty line, 9 out of 10 are rural. Of the top 10 counties in Ohio with the highest percentage of residents eligible for Medicaid, 9 are rural.

Seven rural Ohio counties make all three of these lists: Vinton Pike, Scioto, Adams, Meigs, Jackson, and Morgan—all counties in southeast Ohio. Citizens of this counties need our help, and they need it today.

Yesterday, I spoke with about two dozen officials and activists in those counties in southern Ohio—people from the chamber of commerce, the county commissioners, the mayors, health department directors, community development people—and the stories they told about the President's failure on health care, education, law enforcement, and economic development will be devastating and are devastating for southeast Ohio.

Despite the alarming statistics and the crucial role rural America plays in our Nation's self-sufficiency and in our cohesiveness and culture, the President chose to slash funding for rural economic programs, slash funding in rural health care, in rural law enforcement, in rural education—all so that he could give a tax cut of $51 billion in 2009 to people making over $1 million a year and look what happens to health care, education, law enforcement, and economics development.

While communities in rural Ohio struggle to keep jobs, President Bush proposes to wipe away established rural development programs that these people with whom I talked yesterday—Republicans and Democrats alike, conservatives and liberals alike, public health people, chamber of commerce people, mayors, commissioners, community development people—these programs matter to their well-being, to the economic vitality of these rural areas. These housing programs, for instance, support the construction, purchase, and rehabilitation of single-family homes, giving struggling rural Ohioans a chance to own their own homes. With all the problems we have with foreclosures, they are not just urban problems, suburban problems, or rural problems; they are every year. But the President takes special attention to wiping out rural programs that can make a big difference in people's lives.

These programs encourage rural business expansion, job creation, and grants to extend broadband access across Ohio.

These are critical programs that provide water and sewer infrastructure. The EPA comes in and says to these communities: You need major renovation—major replacement in some cases—of a lot of these water and sewer systems, and then they simply do not help them do that. It means higher sewer and water rates for unemployed people and higher sewer and water rates for people struggling, middle-class families who are proud and struggling to stay above water.

In places such as Vinton County in southeast Ohio, a third of the people are on Medicaid. Medicaid is not a luxury; it is a crucial support system for children, the disabled, and the elderly living in poverty. Medicaid covers about one in every three nursing home residents. What is to be become of seniors under the President's Medicaid cuts? Medicaid cuts: F in health care. What is to become of the seniors without this successful insurance program? The President's budget cuts $18.2 billion from Medicaid over 5 years. These cuts touted by the administration as ''savings'' will be primarily achieved by shifting costs to States, regardless of whether States can actually shoulder these costs. Again, these $18 billion cuts to Medicaid are to pay for a tax cut for people making over $1 million a year.

The Bush budget slashes other programs designed to help rural communities address unique health care challenges. People who have to go to the emergency room have to drive 30 minutes, 45 minutes. A lot of people go to emergency rooms in southeast Ohio because they cannot afford any other care, and they go in hoping to get charity care. These are not people who are lazy. These are not people without a decent work ethic. These are people who work hard, have jobs, are barely making it, they go to food banks, in too many cases, they are on Medicaid, and they have to rely on the Government because they are struggling, working hard, working a couple of jobs, and simply cannot make it.

Rural Ohio is experiencing unprecedented challenges in law enforcement as meth labs multiply and threaten families and communities. Yet, since 2001, President Bush has cut funding for State and local law enforcement programs by over 50 percent. Law enforcement: The President gets an F in rural Ohio for his budget. This year's budget would slash funding 63 percent for all State and local law enforcement programs in the Department of Justice. That is $1.6 billion, again, so the President can give tax cuts to people making over $1 million a year.

The budget also eliminates funding for the COPS Program. Talk to people in Windham, Athens, Gallipolis, Chillicothe or Blair, communities that need the COPS Program to keep these communities safe. It is a program that has worked for 10 years. So the President wants to eliminate it so he can give tax breaks to people making over $1 million.

I sound like a broken record, but it is morally outrageous to do tax cuts for people making over $1 million a year and then earn an F on health care, F on education, F on law enforcement, and F on economic development for these struggling communities, the same kind of rural areas in the Preside Officer's State of Missouri, rural areas where I know she has spent a lot of time, rural areas where I have spent a lot of time, where people are struggling, trying to stay in the middle class, trying to support their kids, and trying to just get along.

The President's proposal shortchanges overall education funding by $826 million. This budget would cut or eliminate programs to support educational opportunities for rural Ohio families, particularly programs such as career and technical education, for elementary school counseling, for Safe and Drug-Free Schools—the kinds of jobs many of these people, young people in southeast Ohio, want to get—career education, tech education, elementary school education. They want to teach, they want to be nurses, they want to be occupational therapists, they want to be physical therapists. They want to work in their communities. They don't want to go off to big cities and leave home. They want to raise their children where their parents are so their parents can see their grandchildren. And they need jobs in Chillicothe, in Zanesville, in Cambridge, and all over southern Ohio.

Our Nation's future depends on our actions now. We can either address barriers to our children's success in education, we can address the issues of law enforcement, we can address the needs of health care, or we can abdicate responsibility and watch our rural areas continue to decline. If our rural areas decline—and we know the strength of our rural areas in building our country in the last 200 years—if they decline in Missouri, Ohio, and around this country, it means our country declines, and we cannot stand for that.

As my State's first Senator to serve on the Agriculture Committee in four decades and a member of the HELP Committee, which has jurisdiction over health and education programs, I will continue to fight to ensure that our Nation invests in rural America. It is the smart thing to do for our future. It is the right thing to do for our families.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. KLOBUCHAR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. KLOBUCHAR. Madam President, I ask unanimous consent to speak as in morning business.

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

The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. I thank the Chair.

(The remarks of Ms. KLOBUCHAR pertaining to the submission of S. 2642 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Mr. GRASSLEY. 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. GRASSLEY. I ask unanimous consent to speak as in morning business.

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

(The remarks of Senator GRASSLEY pertaining to the introduction of S. 2641 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DORGAN. 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. DORGAN. 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. DORGAN. I know my colleague, Senator COBURN, is here. He is going to offer an amendment. I should tell you how pleased I am. Senator COBURN indicated he would be here around 2 o'clock. He was good enough to come this morning at 9:30 and engage in discussion on this bill.

But we have discussion about virtually everything about the bill on the floor of the Senate, Indian health care. The fact is we have had all kinds of amendments that have nothing to do with the bill. I hope we can finally get this moving.

I had spoken this morning of some people whose experience with the Indian health care system and the lack of health care for American Indians has been devastating. Some people died as a result of not having access to adequate care that we would take for granted in our country.

Let me mention my colleague from Oklahoma is on the floor and is going to discuss one of his amendments. You know, we have a trust responsibility. We have a responsibility to keep a promise we have made in treaty after treaty for Indian health care. I do not think there is a disagreement on the floor of the Senate about that.

There is no disagreement that we have a responsibility, that responsibility is in writing in all kinds of treaties. So we have made the promise; we have not kept the promise.

Let me make one final point. There is no group of Americans who have served this country in greater percentage of their population than American Indians. You take a look at the percentage of veterans who have served this country in wars and during peacetime, no population has had a greater percentage of people who have gone to serve America than American Indians.

I told my colleagues once previously about a Sunday morning in Fargo, ND, at the veterans health care facility, veterans hospital, where a veteran named Edmond Young Eagle was dying of lung cancer. I did not know it that day, but he would die 7 days later of lung cancer.

He was a man who lived on an Indian reservation. When called by his country, he served in Africa during the Second World War, at Normandy, throughout Europe, served with great distinction.

He came back. He never had very much, lived a tough life, didn't have many relatives. At the end of his life his sister asked if I could get his medals he had earned but never received. I did. I took them on a Sunday morning to the veterans hospital in Fargo, to this man who was in his mid- to late-seventies, a World War II veteran, had a tough life, never had very much, was dying of lung cancer. We cranked up his hospital bed to a seated position. He was a very sick man but very well aware of what was going on. I pinned a row of medals on his pajama top at the veterans hospital. The doctors and nurses from the hospital packed into his room. This proud man said to me, as I pinned his medals on his pajama top: This is one of the proudest days of my life.

This is a man who had a difficult time in life. He never had very much but served his country when asked in Africa, in Europe, fought for his country. Many years later, just prior to his death, he was recognized by his country, as I told him: A country that is grateful for your service. There are so many who have provided so much service from Indian reservations, from Indian nations.

We have made a solemn pledge to the Indians—we signed it into treaties; we have it as a trust responsibility—we will provide for your health care.

As my colleague from Oklahoma said this morning, take a look at Medicare, Federal prisons, Indian health, a whole range of things. Just to take Federal prisons as an example, we spend twice as much per person providing health care for prisoners as we do meeting our responsibility to provide health care for American Indians. That is a disgrace. It has to change.

I can't tell you how pleased I am to see my colleague from Oklahoma because we have had so many amendments that have so little to do with the underlying bill. I know my colleagues have offered a number of amendments that deal directly with it.

I yield the floor.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator from Oklahoma.

Mr. COBURN. Mr. President, every amendment I have has something to do with this bill. They are all germane, not meant to delay. I am happy to vote for cloture right now to prove that I don't want to delay this bill. What I am going to ask is unanimous consent for the regular order and discuss my amendment No. 4034, after which I will ask for a vote. Then if the leadership wants to stack votes, I am fine with that.

This is a simple amendment. I know the chairman is critical of it because he thinks it is false in terms of its intent. During our budget debate, I plan on adding $2 billion to Indian health care. I also plan on making us make the tough decisions on where we take it from. We don't have extra money, so it is about priorities, about keeping commitments. I will be offering that when we get to the budget to make sure there is an extra $2 billion for Native American care, and then we will decide whether we think that is a priority as we vote on the budget and on the appropriations bills.

This is a straightforward amendment. This allows tribal members to get insurance. If they want to use the IHS service, great. But if they have to wait in line to wait in line to get care, maybe they can go somewhere else. Then we are keeping our commitment. If they know that the care for a certain type of disease is terrible at IHS, they can go where it is better. We are going to put the security of our promise in real terms, and we are going to put choice, the same thing every Member of this body has, and security in health care, into the hands of the Native Americans. That is what the amendment does. The reason it doesn't cost anything is because we are going to charge IHS for what it costs. We have designed the amendment. We are waiting to see what the budget chairman does with the budget and where we are going to find this $2 billion. But I promise you, we are going to get a chance to vote on my amendment to put in $2 billion. So it is not an empty promise.

One of the things we know that improves everything is competition. One of the ways to get rid of some of the waste that is in IHS and to put a priority back in is to start competing.

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

Mr. COBURN. I am happy to.

Mr. DORGAN. This is an authorization bill. The Senator is amending it. Does his amendment anticipate an increase by $2 billion for the authorized level because we are authorizing expenditures? The Senator will perhaps offer a $2 billion appropriations measure. I will as well. I hope we will be able to work together on that. But we will also have to increase the authorization. Does the amendment increase the authorization?

Mr. COBURN. It does not at this time. I will give a commitment to the chairman. Under our rules, when I want to take money away from something else, I have to deauthorize it. We don't have enough money in Indian health so we have to deauthorize something else. If we get it under the budget, I have every intention of making us make a choice. I will vote for an increased authorization at this point in

time right now for $2 billion. But I will also come back and say we have to find the money to pay for it.

Mr. DORGAN. Mr. President, why don't we do that, provide the authorized room? The Senator this morning indicated—and I agreed—that we are about $2 billion short of fully funding Indian health care. We have full-scale rationing going on. The amendment has a restriction in it. He limits the amount of funding in his amendment to the amount of funding that currently exists in Indian health. The President has just proposed a reduction in funding, even though we are only meeting 60 percent of current need. My question is, should we not then remove that restriction and actually increase the authorization because he and I have the same goal. Let's get the amount of money in the system that provides health care for Indians that we have promised.

Mr. COBURN. I will happily vote for that. But what we have to do is deauthorize something else. I know you disagree with my thoughts on increased authorizations versus offsets. I believe we have a commitment. I believe we have a treaty obligation. I believe we have a moral obligation. But I also believe it has to be balanced with the obligation that Members of Congress refuse to do, which is to make judgments about priorities. An empty promise to authorize that is not offsetting some authorization somewhere else without coming around and doing it; tons of bills go through this place authorizing things so we can send a signal out there that we did something, knowing that we never intend to fund it.

Right now we have over $8 trillion a year in authorizations. It can't be hard to find $2 billion to deauthorize to increase the authorization for Indian health. We have to have a vote, and we have to decide what that is.

I will commit to the chairman, I will vote for that, as long as we are decreasing somewhere else. I am willing to go find where that is for the chairman. I will commit that I will offer an amendment to increase the spending for this in our budget. I also will commit that when the appropriations come through, although I may not vote for the whole appropriations bill because it is not going to just be for Indian health care, I will vote for amendments that will increase the amount of money that goes to Indian health care as long as it is within the budget. That is why I said my goal is to do that within the budget where we could have a debate about priorities.

Mr. DORGAN. If the Senator will yield further, one of the dilemmas in providing Indian health care, not so much in the State of Oklahoma but in other areas where there are reservations, is in many cases the only health care that is available is the Indian Health Service clinic, and you are 80 miles away from the nearest hospital. In many cases there will never be competition in an area where someone is desperately sick and needs to see a doctor quickly. I happen to agree the underlying notion of this amendment of providing a card to someone to say, take this card to a health care facility and get that need fixed, if you must—I happen to think that has merit. I will be working with the Senator on that with respect to the bolder approaches to Indian health care. But on page 4, line 4, is where you have budget neutrality: In conducting the program under this section, the Secretary shall ensure the aggregate payments made to carry out the program do not exceed the amount of Federal expenditures which have been made available. That is saying that we want to do all of this, which would expand contract care and so on but within the same amount of money that currently exists in Indian health care. It is kind of a chicken and egg.

Mr. COBURN. I would like to reclaim my time if I might. The fact is, we appropriate $280 billion a year in stuff that is not authorized right now. So we will not have any problem appropriating this money if we don't authorize it. A quarter of the discretionary budget is not authorized right now. We will not have any problem with that. My amendment says, on the areas the Senator just described, to do it only if it is geographically feasible. I recognize there are some places where we have isolated reservations and we have IHS. I am willing to put the money behind it, but I also realize more of the same doesn't get it done. So if we double Indian health care money, we are still going to have an inefficient system that will deliver care at a lower level than what you can get in the private sector.

What I am saying with my amendment is, let's have both. We ought to do both. I am making a statement on the Senate floor—and the Senator will recognize, I believe, that I usually keep my word about coming back and doing what I say I will do—I will work to get the extra $2 billion, but an extra $2 billion in a broken system is not just money that is broken with IHS. I believe the chairman will agree. What I wanted to do is fix the system and increase the money, increase the choice and security that Native Americans are entitled to that all the rest of us have.

The fact is, if the only place a Native American can get care is IHS, that is not freedom. That is not the promise kept in its fullest bloom. It is saying, here is the only place you can get care. If the care happens to be great, super. But if the care happens to be average and they need better, they don't have that opportunity. If the care happens to be—and sometimes we know it is, like some of the cases the chairman has presented—when it is substandard and that is the only choice they have, that is not acceptable.

Let me finish my deal, and I will let you go and you can hammer me. I hope I can get you to come around. Maybe I would not get your vote. I know I will get your commitment to work toward it in the future. But I think just adding more money to IHS doesn't fix the problem. I described that earlier when I talked about 30 or 45 minutes. What this does is, it treats Native Americans like every other American. That is what this amendment does. It gives them choice. It gets them out of the prison we have placed them in that says: You only have one place you can go. And, by the way, if we run out of contract funds, even if you need to go somewhere else, you can't go.

Contract funds actually have run out on average in June. So for 5 months of the year, when we need to send Native Americans somewhere else, we don't have the money to do it. So who suffers?

Under this system, you would not run out of contract money because you bought an insurance policy. You have given them the average cost of an individual insurance cost with what we are spending now on care.

By the way, I have another amendment where we describe what an Indian is because, in my State, we have people who are 1/512th stepping in front of a full blood. And most people don't think somebody that is 5/11th out of 5/12th ought to be getting full pay for their health care. And in fact, there are .12 of 1 percent Native blood. We call that light blood in Oklahoma. We have whole blood, mixed blood, and light blood in our State. It actually is very complicated because what is happening now, we have tribes that have quantums and say: If you are not a quarter or an eighth, you are not eligible. But under the IHS system, from some of the other tribes who have members who are 1/512th, they come down to their area and they get into IHS. So here is somebody with 1/512th taking Indian dollars away from somebody who is a quarter or somebody who is a full blood.

What we have said is: Tribes, you have to decide who is an Indian. We actually have some people who are a thousand and 24th that we are giving full blown care to in Oklahoma. They have access to care somewhere else, but they don't want to pay the deductible or the copay. So they step in line in front of a full blood. We have to change that. We have to fix that. We have to fix that because our obligation has to be to the person with the most and then come down. So if we really have restricted dollars, what we have to say is, if you are below a certain level, you have to contribute something. That is the other way that we solve this problem. That doesn't demean the heritage of our Native Americans.

What that says is, the reality is, in 2016 in this country, we are going to be cutting spending all over the place because that is the year interest rises through the roof. That is the year we run out of Social Security with which

to pay for Medicare. That is the year in which for the projected spending, based on revenues, based on growth even at 4 percent, we start running trillion-dollar deficits—trillion-dollar deficits.

Have we ever asked ourselves why gold is worth four times more against the American dollar than it was 10 years ago? Do you think it has anything to do with people thinking we cannot pay back our debt?

So this idea that we are going to have more money in the future to do more things is not going to be there. We need to come to the reality of the situation. We need to start making some of the hard choices. To me, keeping our commitment to Native Americans has to be set up now; otherwise, it is not going to happen, and the funding is not going to get increased between now and 2016. Other than what we do this year, it is going to be hard. The money is going to be hard to get, even if we get out of Iraq.

We are going to get notice today on what I have been working on for 2 years, talking to the Census Bureau about that they are going to be out of control and spend a whole lot more money. I am getting ready to get notice by the Secretary of Commerce—I have a meeting with him this afternoon—that there is going to be a close to $3 billion more pickup to do something we have to do because it has been totally mismanaged—totally mismanaged. We have been having hearings for 2½ years on it, where they have been denying it, and now they are coming to say it has been mismanaged. They are coming to agree.

It is why oversight matters. Had we gotten some of the amendments through this body that we offered on the census, we would not be here. But, instead, we are going to spend $2 billion to $3 billion more because we did not pass the amendments offered based on oversight that we did in my committee.

The whole goal—I am not perfect. I am not right, necessarily, on how I want to do that. I will admit that to the chairman and ranking member. But I know more money does not solve the problem on this, and unless we create real freedom, real choice, and real health care security for Native Americans, we will never have an efficient IHS system, and we will never meet the commitments that we say we have.

So I will ask for the yeas and nays on this amendment. I will listen to the chairman. I do have a meeting at 2 o'clock I have to be at. Whenever the chairman would like to stack the votes, if we run others, I will be happy to work with whatever is his pleasure.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment is not currently pending.

AMENDMENT NO. 4034

Mr. COBURN. I ask that amendment be brought up, No. 4034 be made pending, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. I inquire of the Chair, earlier this morning I made all my amendments pending.

Mr. President, I ask for the regular order on amendment No. 4034.

The PRESIDING OFFICER. The amendment is pending.

Mr. COBURN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I thank my colleague for coming and debating the amendment. I understand he has to leave.

The Senator from Oklahoma certainly is right, it is not more money necessarily that is only going to solve the problem. But I guarantee you that less money will not solve the problem. If we are 40 percent short of money needed now, I guarantee you that the same amount of money will not solve the problem. The amendment he has offered has a provision that says we are going to do something different, we are going to do something that is unique, and, by the way, you cannot spend any more money than you are now spending in a system that is already 40 percent short of money.

How can we have an amendment that restricts the amount of funding? When he says that—he started this morning by saying we are $2 billion short. It is interesting, I do not necessarily disagree with the proposition of trying to find choices, providing an insurance card, or some other mechanism by which we create some competition with the Indian Health Service. But this may be much better for Oklahoma than it might be for other States.

If you have an Indian Health Service area where you are in an Indian reservation 80 miles from the nearest hospital, and the only health care capability you have is to go to the Indian Health Service, well, you know what, we better have adequate funding for that, at least current funding for that. If you add another program on top of this for other Indians who can go somewhere else in a metropolitan area and be able to present a card, because they have now taken money out of the system and purchased their own insurance—you allow that to happen, then the American Indian who is living on the reservation with the current Indian Health Service clinic there has less money.

How does that work to help the folks who are stranded with no competition? It seems to me the way this is written, with a restriction that says there cannot be any additional resources beyond that which currently exist—and, by the way, the President wants to cut that. We have wide-scale health care rationing going on in this country, with people dying because of it, and the President's budget cuts it.

My colleague says: I will support—quoting him—increased funding, increased authorization. But the amendment he authors actually restricts the amount of money available. In order to do something new, if you are going to restrict the amount of money available to what is available now—if you are going to do something new—it is going to come from some place. I will tell you where it is going to come from. It is going to come from clinics out in those reservations where there is no choice.

There is only one opportunity for somebody who has broken an arm or developed an illness or disease and needs to go someplace quickly to find health care. They are going to go to the local Indian health clinic. This money is going to come out of their hide because this amendment offered provides a restriction that no additional resources can exist.

I do not denigrate the idea offered by the Senator from Oklahoma. But this clearly is not something that would be helpful to a lot of American Indians. In fact, I believe it would be hurtful to a lot of American Indians who are the ones who have no choice—who have no choice at all—but must try to get their emergency care and must try to get their basic health care met at those clinics.

I mentioned this morning a woman named Harriet Archambault whose health care was in McLaughlin, SD, in a satellite clinic of the Indian health care facility for the Standing Rock Tribe in Fort Yates, ND. That was her health care: the McLaughlin, SD, satellite clinic. They can handle 10 people in the morning and 10 people in the afternoon. That is it. If you are not on the list of 10, that is it, and you cannot make a reservation. You come and you sign in.

Well, she came five times, drove 18 miles one way each time. Five times she came, and 5 times she was too late to be in the top 10. She could not stay because she was taking care of her grandchildren. She was the daycare provider for her grandchildren. Her medicine had run out for hypertension and high blood pressure in mid-October. Five times she got up early in the morning to drive nearly 20 miles, and she did not get there in time. There were 10 people on the list ahead of her. One month later she died. She tried five times and never got there, in a remote satellite location.

The fact is, people are dying. Children are dying. Elders are dying. There is not nearly enough money to keep the promise this country made to American Indians. The amendment offered today is one I am very interested in working with the Senator from Oklahoma on in a significant reform package in which we dramatically increase the resources to keep our promise, and then try to provide some competition and some choice. I am interesting in doing that, frankly.

I am not interested in passing an amendment that says, let's do this in a

way that restricts funding for others, which is what this amendment does. There is a specific restriction on funding, and that means there is going to be less funding for those clinics, including the satellite clinics. That is not something I am willing to entertain.

But, again, I appreciate finally getting an amendment offered. My colleague indicated he will be back. I indicated earlier we are at parade rest because one of our colleagues apparently has an objection, through his staff, through leadership, and he is off, apparently, at a meeting downtown, and has a speech, and he will be back sometime around 3:30 maybe. But in the meantime, through his staff, we are told we are not able to move on anything.

I have a managers' package that is agreed to, I believe, and I want to send it to the desk in a moment. My understanding is, we cannot move to embrace it despite the fact it would be a unanimous consent, because one of our colleagues is downtown and will not be back for an hour and a half. That will make him gone for 3 hours. In the meantime, we sit here with our hands in our pockets trying to figure out how on Earth we explain this is a body that is supposed to get something done.

I said this morning I have often called this place 100 bad habits, despite the fact I feel enormously privileged to be here. I love the Senate. But I am not very happy about the way this place works today because we deal with an important issue that is life or death to some people, and we are having a difficult time.

Senator MURKOWSKI has worked on this bill with me for a long period of time. Before her, Senator MCCAIN worked on this legislation. We are finally on the floor of the Senate, and because of things that have nothing at all to do with this bill, we are standing here frozen because somebody is gone, apparently.

Mr. DURBIN. Mr. President, will the Senator yield?

Mr. DORGAN. Mr. President, I am happy to.

Mr. DURBIN. Mr. President, I say to the Senator from North Dakota, this is a critically important bill for a lot of very vulnerable people, Native Americans, who have not been treated well throughout our history. I thank the Senator from North Dakota for his leadership in trying to bring this bill to the floor. But could I ask the Senator from North Dakota, how many days have we been on the bill on the floor of the Senate?

Mr. DORGAN. Mr. President, this is this third day we have been on the floor of the Senate. Our hope was this would be the day in which we complete action by late this afternoon. Obviously, it does not appear that way.

Mr. DURBIN. Mr. President, is it my understanding that one Senator has announced he is off for lunch and some meetings and would like to stop the Senate from any further consideration of this bill until he decides to return? Is that the situation?

Mr. DORGAN. Mr. President, I am told one of our colleagues, who is upset about something, has gone off to give a speech downtown at a meeting and will not return for a while. His staff indicates we are not to move without his consent, and he won't provide consent until he comes back, if then.

Mr. DURBIN. So the Senate is at a halt at this point until the Senator's personal schedule accommodates his return?

Mr. DORGAN. Well, it sounds that way. But we will see. Again, it is very frustrating. We have worked very hard to bring this legislation to the floor of the Senate. I know a lot of people are counting on the Congress to do the right thing. My hope is we can move forward. I think we have about four amendments we have cleared. We have a managers' package that is cleared. We will get votes on the Coburn amendment, which is germane, right on target, on the bill. So there is no reason we cannot move forward and get this piece of legislation done.

Mr. DURBIN. Mr. President, I would like, through the Chair, to ask the Senator from North Dakota, why don't we go ahead and move the package then, and we can preserve the right of that Senator to offer his amendment when he returns. That is preserving his right as a Senator if he wants to offer an amendment. But to stop the entire amendment process and all the other possibilities—I hope we do not let that happen.

Through the Chair, I ask the Senator from North Dakota, is that being considered?

Mr. DORGAN. Yes. Let me do this. Let me say the managers' package is something we have negotiated. I believe it has been agreed to unanimously. I do not know of any objection to the package itself. I do know of some objections to the process because one Senator who is not here has staff objecting.

Let me suggest in about 5 minutes I am going to send the managers' package to the desk and ask for its consideration. If there is someone who feels a managers' package that has been unanimously agreed to and worked on very hard—by the way, let me say—and my colleague Senator MURKOWSKI can add to it—we have about five or six areas in the managers' package that are very controversial and had caused us a lot of problems. We worked and worked and negotiated with all of those for whom this controversy exists, and we negotiated something that is agreeable to everybody. It was a good thing to have done. Finally, this managers' package, I think, is now agreeable to everybody, and it is a good piece of work. So in about 5 minutes I wish to send it to the desk and ask for its consideration.

Mrs. BOXER. Mr. President, will the Senator yield, through the Chair, for a question?

Mr. DORGAN. I would be happy to yield.

Mrs. BOXER. Thank you. In order to try to get my schedule and Senator BYRD's schedule—I know Senator BYRD wishes to speak for about 20 minutes. I wish to ask unanimous consent if I could follow him because there was an amendment that involved California. I was not able to be here, and I wish to answer that. If I could follow Senator BYRD.

Mr. DORGAN. Mr. President, how much time is Senator BYRD requesting?

Mr. BYRD. Fifteen minutes.

Mr. DORGAN. Mr. President, Senator MURKOWSKI may wish to add some comments, at which point I believe I will send the managers' package to the desk and ask for its consideration.

Mrs. BOXER. Mr. President, can I have an answer to my question?

Mr. DORGAN. I intend to answer the Senator.

Mrs. BOXER. Thank you.

Mr. DORGAN. Following that, I will be happy to yield the floor. As I understand it, the Senator from California wishes to follow the Senator from West Virginia.

Mrs. BOXER. If I might, yes.

Mr. DORGAN. The Senator from West Virginia wants 15 minutes. And the Senator from California wants how much time?

Mrs. BOXER. I think if I have 15 minutes that would be fine.

Mr. DORGAN. Mr. President, let me defer on the managers' amendment for a moment, and let us begin with Senator BYRD's request for 15 minutes, followed by Senator BOXER. Then my hope would be that we can come back to this bill. We have amendments pending and it is very important that we finish the bill itself this afternoon.

Does Senator MURKOWSKI wish to comment at this point before Senator BYRD takes the floor?

Ms. MURKOWSKI. I will defer to Senator BYRD.

Mr. DORGAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

WAR FUNDS

Mr. BYRD. Mr. President, on February 11, 2008, the Congressional Budget Office responded to an inquiry from Senator KENT CONRAD, the chairman of the Committee on the Budget, regarding the costs to date of U.S. operations and involvement in Iraq and Afghanistan. Allow me to quote in full the critical summary line of this letter:

> If the administration's request for 2008 is funded in full, appropriations for military operations and other war-related activities in Iraq, Afghanistan, and elsewhere in the war on terrorism will rise to $188 billion this year and to a cumulative total of $752 billion since 2001.

It can be difficult to truly grasp how large a number is $752 billion. Let me offer some comparisons. According to Forbes Magazine, the world's most expensive car, a 1930 Bugatti Type 41 Royale, is worth an estimated $10 million. For $752 billion, one could own a

fleet—a fleet—of 75,200 Bugatti Type 41 Royales; that is, if more than 6 had ever been made, or for $752 billion one could purchase 442 space shuttles at $1.7 billion each, according to NASA.

Here is one final comparison: According to the Bureau of the Census, the average price of a home in the United States in 2007 was $311,600. Let me repeat: According to the Bureau of the Census, the average price of a home in the United States in 2007 was $311,600, assuming one could still get a mortgage in today's real estate market. For $752 billion, one could buy 2,413,000 homes—enough homes to house every family in a city roughly the size of Jacksonville, FL or Indianapolis, IN.

That is $752 billion and counting, as the President's fiscal year 2009 budget request has come in, and Secretary Gates has suggested that after the ''surge'' troops come home, troop levels in Iraq will not—not—drop below 130,000 for at least—at least—the remainder of this year. In Afghanistan, the 27,500 troops currently deployed will be augmented by an additional 3,200 marines this spring. So I do not believe that this budgetary comet will do anything but continue its meteoric rise.

We all might still count this $752 billion as well spent if we thought we were getting good value for our money, if both nations were being rebuilt and showing signs of stability and recovery. However, there is evidence that the vast sums of money being thrown at Iraq and Afghanistan are not all being well spent. Far too much money is being siphoned off to line the pockets of greedy contractors while the work which they are being paid to do goes undone or is poorly done. Alarmingly, money, weapons, and oil profits have apparently been delivered directly to insurgents and militias that are not under government control in Afghanistan and Iraq. That must be stopped.

In Afghanistan, one U.S. think tank recently estimated that only $1 of aid out of every $10 actually reaches an Afghan. In Iraq, a local Iraqi businessman told a reporter that:

> I'd say that about 10 percent of business was corrupt under Saddam. Now, it's about 95 percent. We used to have one Saddam, now we have 25 of them.

Despite the growing reports of corrupt practices and the rising number of allegations of the fraud, waste, and abuse of Government contracts, not enough is being done to apply diplomatic pressure on the Governments in Iraq and Afghanistan to clean up their acts, and not enough resources are being applied to efforts to investigate and prosecute contract fraud. Congress has been watching, holding hearings, and complaining on behalf of the taxpayers, but much more—much more—needs to be done. After 7 years, we cannot continue to hide behind feeble excuses. Too much money is being lost to continue to let the systemic abuses persist.

After 7 long years, 7 long years of occupation and reconstruction efforts, much, much remains undone that was supposed to be done long, long ago. As long as in-country government officials and all of the associated contractors continue to profit from corruption and an unchecked ability to commit fraud, waste, and abuse, there is little—little, I say—incentive for anyone to make the progress that would assist the United States and the rest of the international community in departing.

American taxpayers and the Committee on Appropriations have invested $752 billion in Iraq and Afghanistan. We expect to see that treasure treated with the same respect that we give to our troops. They too have worked hard. They too have sacrificed much to provide the security for reconstruction efforts to take place. None of that sacrifice—none of that sacrifice—should be thrown away on cases of fraud, waste, abuse, and through rampant corruption. I—the personal pronoun I—intend to conduct a hearing on this matter as a first step, as a first step in what will be a long, long, hard look at just where—just where—the taxpayers' hard-earned money has been going.

I intend to invite Senator DORGAN, I intend to invite Senator LEAHY, and I intend to invite Representative WAXMAN to testify on the findings of their earlier investigations. I will also invite other witnesses to offer their expertise on issues concerning the abuse, misuse, and loss of U.S. funds to corrupt practices. I appreciate the encouragement and support of our Democratic leader, Senator REID, in tackling this issue.

This is not a partisan issue. Good governance and the wise use of taxpayer dollars are always nonpartisan goals. It is the responsibility of all of us—and I mean all of us—to determine the scope and the scale of the problems and then to devise the best—nothing but the best, and only the best—and fastest solutions to fix them.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, the announcement by the Senator from West Virginia, chairman of the Appropriations Committee is, I think, good news. It is the case that the Appropriations Committee appropriates a great deal of money, and the question about oversight is very important. The Senator from West Virginia talks about understanding and needing to know how the money is spent, where the money is spent.

With nearly three quarters of a trillion dollars having been spent on the wars in Afghanistan and Iraq and the war on terror, there has been so much waste, fraud, and abuse, and there has been too little oversight. The Senator from West Virginia is showing great foresight and courage in saying we are going to provide that oversight. I think the Senate and the American people owe him a debt of gratitude for launching this effort. I say thank you.

I know the Senator from California is going to speak. When we finish the request, to be able to share with our colleagues, I may ask her to yield so I might propound a unanimous consent request during her presentation.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 4067

Mrs. BOXER. Mr. President, I am speaking to an amendment that was offered by Senator DEMINT, which he said he wants to reoffer. I want to address this amendment which unfairly targets and penalizes taxpaying Americans by denying them some very important appropriations that were approved by Congress in 2008.

Senator DEMINT came to the floor to describe actions that the city of Berkeley took last week in relation to the U.S. Marine Corps recruiting office. Let me be completely clear about those actions. Three of the members, in particular, wanted to send a letter expressing their disapproval of the Marines having a recruiting center in Berkeley. The language was offensive to many. I did not agree with anything they said.

Now, on Tuesday, they explicitly stated that the ill-advised letter they were planning to send to the Marines would no longer be sent. Therefore, you would think Senator DEMINT would then say, fine, I am glad they changed their mind. In addition, the city said this in writing.

I ask unanimous consent to have printed in the RECORD the statement they made about the Marines, if I might.

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

CITY OF BERKELEY,
CITY CLERK DEPARTMENT,
Berkeley, CA, February 13, 2008.

To: Senator Barbara Boxer, Jennifer Tang:

Per your request, below is an excerpt from the February 12, 2008 City Council meeting Annotated Agenda in reference to Item 25.

25. Reiteration of Berkeley's Opposition to the Iraq War and Clarification of the City's Support for the Men and Women who Voluntarily Serve this Country in the Military.

From: Councilmembers Olds and Capitelli.

Recommendation:

(1) That the City Council through adoption of this item, publicly differentiate between the City's documented opposition to the unjust and illegal war in Iraq and our respect and support for those serving in the armed forces.

(2) Rescind point 2 of Item 12, of the January 29, 2008 Berkeley City Council Agenda, ''Marine Recruiting Office in Berkeley,'' regarding communications with the Marine Recruiting Station in Berkeley.

Financial Implications: None.

Contact: Betty Olds, Councilmember, District 6, 981–7160.

Action: M/S/C (Mario/Moore) to—

1. Accept Councilmembers Olds and Capitelli's recommendation to publicly differentiate between the City's documented opposition to the unjust and illegal war in Iraq and our respect and support for those serving in the armed forces, and

2. Accept the following statement submitted by Mayor Bates and Councilmembers Anderson, Maio and Moore:

Given the confusion about the Council's action on January 29, 2008, a strong statement of the Berkeley City Council's position

regarding the Marine Recruiting Station is needed. The City of Berkeley and the citizens are strongly opposed to the war in Iraq. The war has resulted in over 4,000 soldiers killed, tens of thousands wounded in body and spirit, hundreds of soldier suicides, and millions of Iraqi people killed, injured and displaced from their homes. In addition, the hundreds of billions of dollars spent on this deeply immoral war could have been spent to meet the needs of our people and to strengthen our economy. We recognize the recruiter's right to locate in our city and the right of others to protest or support their presence. We deeply respect and support the men and women in our armed forces. However, we strongly oppose the war and the continued recruitment of our young people into this war.

With the issuance of this statement there is no need to send the letter to the Marine Corps that the City Council approved on January 29, 2008.

Noes: Olds, Wozniak.

Mrs. BOXER. Mr. President, they said they ''deeply respect and support the men and women of our Armed Forces.'' I think the council did the right thing. They realized they should not mix up the Iraq war, which was brought to us by this President, and the warriors who fight it. There is a difference. They recognized that. I am very glad about that. You would think Senator DEMINT would be very glad about that. He is not. He is still angry and he is still wanting to fight the battle of a couple weeks ago and not recognize the fact that this letter he was railing about, which offended him and many others, was never sent.

That aside, the DeMint amendment is an attack on the rights of citizens to participate in free speech. There are a lot of things that go on in this country that I think are terrible; I think they are wrong, mean spirited, and hurtful. I think a lot of things, because we all have our own opinions on what is said. If every time I heard about some city councilman in some city in another State saying something I thought was offensive, that hurt our military, our seniors, disabled people, minorities or children, I came out here and said: Oh, my goodness, let's withhold funds from that city because of that city councilman, we would have quite a situation on our hands.

State and local governments all across this Nation pass resolutions and measures that many of us don't agree with on a host of issues. Disagreements are part of the political discourse. Why on Earth would we punish good, decent citizens because some members of their local government or the sewer district or mosquito abatement district or water district or others say something that is offensive? Yes, we have a right to come to the floor, as Senator DEMINT did, and say it is terrible and wrong and take it back. That is fine. I welcome that. But I don't sit around waiting to hear what they are saying in South Carolina, Georgia, Texas, and Oklahoma—those are the States of the Senators who want to take away these funds from the good people of northern California. I don't sit around waiting to see what they might say, and then say I am going to punish everybody because I don't agree with that speech.

The other thing I found interesting is that in a press release the Senator from South Carolina, Senator DEMINT, challenged the process by which the funding requests were granted by the Appropriations Committee. Today, he called them ''secret'' earmarks. Yet every one of these projects was funded in the most open and transparent manner.

I will show you what those earmarks are. As a matter of fact, this is an opportunity for me to celebrate those particular projects because they are so important to the police, to the fire department, to the children, to the disabled, to students, to the memory of a wonderful Congressman Bob Matsui, and also to the environment. You will see what I mean. Every document pertaining to those projects was made available to the public. Every request was approved in the openness of the House and Senate Appropriations Committees and the openness of the House and Senate Chambers.

If the Senator from South Carolina, Senator DEMINT, was so concerned with these funding requests for our police, for our fire department, for our children, the disabled community, for our environment, and for our college students, he had the opportunity to challenge the funding of those requests. He had that opportunity when the bill was on the Senate floor. He didn't do that. Oh, no, he is going to challenge them because someone in the city council—several members—said something offensive that he didn't like and, therefore, as a result of that, instead of standing up and talking to those people who made those offensive comments and trying to change their mind, he tries to punish all the people in the surrounding area. The reason, I would posit, that the Senator didn't challenge these earmarks at the time they were made is because they are excellent programs.

Congressional and executive funding requests, whether they are earmarks from the President or Congress, should be awarded based on merit, not based on what someone in a community said. It is just beyond belief. They should be able to stand on their own merits and serve the people we represent.

I am going to show you some photographs that talk about some of these earmarks. The first is of these beautiful children standing in this garden that is run for the benefit of public schools in the Berkeley School District. These students learn how to plant and grow vegetables and harvest the vegetables. They work the garden. They learn about nutrition. They learn how to cook the food, serve the food, and clean up. This is such a popular program that it is being replicated in places as far away as Louisiana. We all know we have serious problems with our kids with diabetes. We know our kids don't eat the way we want them to because they are attracted to high-sugar foods and sodas and all the things that are not good for them. Here is a program that teaches them to love the whole notion of eating in a healthy way. That is a program Senator DEMINT went after, along with his friends who are cosponsors. I wish to show you some other programs that are impacted. This is unbelievable.

In this photo, we see a few of the most seriously disabled people you can find in America today. They want to live independently. Here is Ed Roberts, who needs oxygen every second, with a tube in his mouth. We want these wonderful people—some of them who are veterans—to be able to live independently. Here you see pictures of them doing that, with paralyzed bodies—children, moms. He wants to take away the funding because he disagreed with what some people said at the Berkeley City Council, which they now have taken back. Outrageous. Outrageous.

Let's show you the other earmarks they are going after. Here are students at UC Berkeley. There is a program named after Bob Matsui, the beloved Congressman. They are going after that program as well.

Here is a picture of congestion in the San Francisco Bay area, where you can see the Bay Bridge here; and you can barely tell it from where you are sitting, Mr. President, but all these dots are cars. We have the most congested areas in the country. We want to get funding for a ferry boat to carry people and get them out of their cars and use the waterways. This was Congresswoman LEE's earmark. He wants to cut this because he didn't agree with members of the council who have now taken back what they said.

Here are our heroes, the firefighters. They are part of the recipients of an award that we said they deserve so there could be some communication in our region between the fire and the police in the jurisdiction, so that when we have a terror attack—and we hope we never do—or when we have a fire—and we often do—or an earthquake, which we often do, they have communications equipment. This is what Senator DEMINT wants to take away from law-abiding firefighters because he didn't agree with something the city council said, which they took back.

Here is the real point I have to make about all this. Senator CHAMBLISS is an original cosponsor of the DeMint amendment challenging these earmarks. Let's look at an earmark he got in his State. It was for the Daugherty County School System Healthy Lifestyle Program. Ours is the Berkeley Unified School District School Lunch Initiative. I don't see Senator CHAMBLISS trying to give up his program. I would never try to take that away from him because of something somebody said in his State that I didn't agree with.

Here is Senator CORNYN, another proud sponsor of the DeMint amendment to slash these earmarks: Ed Roberts Disability Services Campus in

Berkeley. I showed the people coming back from the war, paralyzed veterans in wheelchairs. Senator CORNYN wants to cut that earmark because the city council said something offensive which they have now since taken back. I would never go after Senator CORNYN's paratransit vehicle replacement in Abilene, TX.

Here we go: The Strom Thurmond Fitness and Wellness Center at the University of South Carolina. We don't know who got that earmark because it was secret. It was secret. But I would never try to take away the Strom Thurmond Fitness and Wellness Center. Then let them leave alone the Bob Matsui Center for Public Service at UC Berkeley.

Senator INHOFE, my friend, is a proud sponsor of this amendment, too. He has the Oklahoma City River Ferry Boat Transportation Program. He was proud to get that earmark. I would never go after that if someone in Oklahoma said something that I did not like, a city councilman, a mayor. Maybe I wouldn't like it and I might write them a letter and say what they said was wrong, unpatriotic, I don't agree with it. But I would never go after an earmark that helps move people from place to place. So let him leave alone the San Francisco water ferry.

Here is Senator VITTER, another proud cosponsor of the DeMint amendment. I cannot tell my colleagues how many times I have helped Senator VITTER in my committee get help for the people of Louisiana. Do I agree with what every city council member says in Louisiana? Probably not. And if I did disagree with them, if they said something I found unpatriotic or not caring about our troops, I would send them a letter, but I wouldn't go after Senator VITTER's earmark for the Baton Rouge Communication Technology Pilot Program because I think it is important that police, fire, and emergency workers, who are our heroes, have the funding they need.

The final item I want to show my colleagues is this: This move by Senator DEMINT to take away the funding was addressed by the chair of the Military Affairs Department, Commanding Officer, ROTC, at the University of California. I want to read what he said about the University of California at Berkeley. I will just read certain statements:

> Given the recent spate of controversy surrounding the U.S. Marine recruiting office . . . I feel it is my obligation to inform members of Congress of the relationship we have with the university and the outstanding support it provides not just to the ROTC Program but to all military personnel, their dependents and veterans as well.
>
> UC Berkeley has been and continues to be a very big supporter of all our ROTC programs here on campus. They should in no way be associated with or linked to the actions of the Berkeley City Council which has taken on a very outspoken stance against the United States Marine Corps Recruiting Station in the city. . . .
>
> I would like to ensure that those in favor of the Semper Fi Act understand that UC Berkeley is a tremendous supporter of all the military programs on campus as well as all the military personnel, their dependents and veterans who attend this university. It would be a travesty of justice to . . . punish UC Berkeley for the actions of the Berkeley City Council.

When this was written, I don't know whether Captain Laird knew that the Berkeley City Council did not send that letter and instead finally realized their mistake and said how much they support our men and women in uniform.

The fact is, this kind of a punishment for a community such as this, a community of families who care about their country, who are taxpaying citizens, because of actions of a few, is an outrage. It would be a terrible precedent if we now started punishing children, policemen, firemen, disabled veterans, and students. If that is what we are going to become in this Senate, then we do not deserve to be here. That is absolutely wrong.

The Marine Corps has given 232 years of exemplary service to our Nation and, tragically, 974 of the marines who served in Iraq paid the ultimate price. More than 440 of those were based at Twenty-nine Palms and Camp Pendleton in my home State of California. The Marines deserve our respect and our gratitude and our support.

Again, I am glad that the council realized there is a difference between a war and a warrior.

Again, Senator DEMINT seems to be making political points on an issue that essentially was resolved. But if he wants to come here and debate with me why it is right to take away money from students, if he wants to debate with me why it is OK to take away money from disabled veterans, why it is OK to take away money from firefighters, many of whom are veterans, many of whom put their lives on the line every day, if he wants to have that debate, I will be on my feet, and I will have that debate.

I know Senator DORGAN wishes to have the floor. Mr. President, is Senator DORGAN ready to make his UC request?

Mr. DORGAN. Mr. President, has the Senator from California completed?

Mrs. BOXER. I will yield to Senator DORGAN or I can complete in 2 minutes.

Mr. DORGAN. Mr. President, I ask the Senator from California to complete her statement, after which I will be recognized.

Mrs. BOXER. The point I am making is, we all have our opinion on what constitutes free speech. I support Senator DEMINT's right to express his opinion about what he thought of the proposed actions of the Berkeley City Council. He has every right to do that. He has every right to offer his amendment. But I have every right to come down here and say I think not only is it mean-spirited, it is hurtful to the wrong people. And I have every right to come down here and say: Senator DEMINT, they never sent that letter to the Marines, happily. They rethought it.

If he wants to continue with this amendment, if he wants to offer it to every bill we have, then I will be right down here with these photographs and others that I have. I will be right down here with more testimony from the military who will testify to how incredibly welcoming UC Berkeley is to our men and women in uniform.

There will be wars in the future—we all hope there will not be, but there may be—with which we do not agree, but we must never confuse our anger at the people who would send our young people to a war of choice or a wrong-headed war and the young people who are sent there. We must come here every day to support those young men and women. Let's not use this as a way to take cheap political shots because they do not deserve it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we have been patiently waiting for some hours now. It is pretty unbelievable to watch this process work. The old saying about watching sausages being made or laws being made, it is not a very attractive picture. That certainly is true today on the floor of the Senate.

We have legislation we reported out from the Indian Affairs Committee dealing with an obligation that this country has to provide Indian health care. It is an obligation we promised in treaties. It is a trust obligation reaffirmed by our courts, and it has been nearly 10 long years getting to the floor to reauthorize the Indian Health Care Improvement Act. It is not as if anybody is speeding around here.

We finally get to the floor of the Senate, we are on the third day, and we have all kinds of amendments that have little to do with Indian health care.

We have been standing at parade rest for 3 hours while one of our colleagues has been giving speeches downtown and their staff has indicated they must object to this request. I do not understand the 25 stages of approval required in this Chamber to say hello or goodbye. Perhaps we can find a way to move on the issue that confronts the Senate at this moment, and that is Indian health care. Even as we talk, people die out there because there is full-scale rationing of health care.

One part of this legislation that we have worked on is called the managers' package. It is not a typical managers' package we see with other legislation where there are a lot of additions. This managers' package is a requirement we had to try to negotiate about five very difficult and very controversial issues. We had great objections to certain areas of the bill, so Senator MURKOWSKI and I and our staffs worked over the last month to negotiate, and we reached agreement on five or six areas.

That agreement was pretty difficult to reach, but we did it with a lot of people on both sides of the aisle. That is what is comprised of this managers' package.

AMENDMENT NO. 4082 TO AMENDMENT NO. 3899

Our managers' package is at the desk. I ask unanimous consent that the pending amendment be set aside and that the managers' amendment, which is at the desk, be considered.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Ms. MURKOWSKI, proposes an amendment numbered 4082 to amendment No. 3899.

Mr. DORGAN. 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:

On page 139, strike lines 5 through 9 and insert the following:

''(III) may include such health care facilities, and such renovation or expansion needs of any health care facility, as the Service may identify; and

On page 143, strike lines 15 through 17 and insert the following:

wellness centers, and staff quarters, and the renovation and expan-

On page 145, line 13, insert ''and'' after the semicolon.

On page 145, line 16, strike ''; and'' and insert a period.

On page 145, strike lines 17 and 18.

On page 146, line 9, strike ''hostels and''.

On page 147, strike lines 15 through 21 and insert the following:

''(e) FUNDING CONDITION.—All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13) (commonly known as the 'Snyder Act'), for the planning, design, construction, or renovation of health facilities for the benefit of 1 or more Indian Tribes shall be subject to the provisions of section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) or sections 504 and 505 of that Act (25 U.S.C. 458aaa–3, 458aaa–4).

Beginning on page 159, strike line 12 and all that follows through page 161, line 16, and insert the following:

''SEC. 303. PREFERENCE TO INDIANS AND INDIAN FIRMS.

''(a) DISCRETIONARY AUTHORITY; COVERED ACTIVITIES.—The Secretary, acting through the Service, may utilize the negotiating authority of section 23 of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian Tribes in the State of New York (hereinafter referred to as an 'Indian firm') in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless the Secretary finds, pursuant to rules and regulations promulgated by the Secretary, that the project or function to be contracted for will not be satisfactory or that the project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at such a finding, shall consider whether the Indian or Indian firm will be deficient with respect to—

''(1) ownership and control by Indians;

''(2) equipment;

''(3) bookkeeping and accounting procedures;

''(4) substantive knowledge of the project or function to be contracted for;

''(5) adequately trained personnel; or

''(6) other necessary components of contract performance.

''(b) PAY RATES.—For the purpose of implementing the provisions of this title, the Secretary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are not less than the prevailing local wage rates for similar work as determined in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code.

On page 176, strike lines 12 through 15 and insert the following:

''(3) staff quarters; and

''(4) specialized care facilities, such as behavioral health and elder care facilities.

On page 196, line 15, insert '', including programs to provide outreach and enrollment through video, electronic delivery methods, or telecommunication devices that allow real-time or time-delayed communication between individual Indians and the benefit program,'' after ''trust lands''.

On page 269, strike line 18 and insert the following:

''(d) ALLOCATION OF CERTAIN FUNDS.—Twenty per-

On page 336, between lines 2 and 3, insert the following:

''SEC. 8___. TRIBAL HEALTH PROGRAM OPTION FOR COST SHARING.

''(a) IN GENERAL.—Nothing in this Act limits the ability of a Tribal Health Program operating any health program, service, function, activity, or facility funded, in whole or part, by the Service through, or provided for in, a compact with the Service pursuant to title V of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aaa et seq.) to charge an Indian for services provided by the Tribal Health Program.

''(b) SERVICE.—Nothing in this Act authorizes the Service—

''(1) to charge an Indian for services; or

''(2) to require any Tribal Health Program to charge an Indian for services.

On page 347, after line 24, add the following:

SEC. 104. MODIFICATION OF TERM.

(a) IN GENERAL.—Except as provided in subsection (b), the Indian Health Care Improvement Act (as amended by section 101) and each provision of the Social Security Act amended by title II are amended (as applicable)—

(1) by striking ''Urban Indian Organizations'' each place it appears and inserting ''urban Indian organizations'';

(2) by striking ''Urban Indian Organization'' each place it appears and inserting ''urban Indian organization'';

(3) by striking ''Urban Indians'' each place it appears and inserting ''urban Indians'';

(4) by striking ''Urban Indian'' each place it appears and inserting ''urban Indian'';

(5) by striking ''Urban Centers'' each place it appears and inserting ''urban centers''; and

(6) by striking ''Urban Center'' each place it appears and inserting ''urban center''.

(b) EXCEPTION.—The amendments made by subsection (a) shall not apply with respect to—

(1) the matter preceding paragraph (1) of section 510 of the Indian Health Care Improvement Act (as amended by section 101); and

(2) ''Urban Indian'' the first place it appears in section 513(a) of the Indian Health Care Improvement Act (as amended by section 101).

(c) MODIFICATION OF DEFINITION.—Section 4 of the Indian Health Care Improvement Act (as amended by section 101) is amended by striking paragraph (27) and inserting the following:

''(27) The term 'urban Indian' means any individual who resides in an urban center and who meets 1 or more of the 4 criteria in subparagraphs (A) through (D) of paragraph (12).''.

Beginning on page 358, strike line 23 and all that follows through page 360, line 11, and insert the following:

(d) SATISFACTION OF MEDICAID DOCUMENTATION REQUIREMENTS.—Section 1903(x)(3)(B) of the Social Security Act (42 U.S.C. 1396b(x)(3)(B)) is amended—

(1) by redesignating clause (v) as clause (vii); and

(2) by inserting after clause (iv), the following new clauses:

''(v) Except as provided in clause (vi), a document issued by a federally recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe (such as a tribal enrollment card or certificate of degree of Indian blood).

''(vi)(I) With respect to those federally recognized Indian tribes located within States having an international border whose membership includes individuals who are not citizens of the United States documentation (including tribal documentation, if appropriate) that the Secretary determines to be satisfactory documentary evidence of United States citizenship or nationality under the regulations adopted pursuant to subclause (II).

''(II) Not later than 90 days after the date of enactment of this subclause, the Secretary, in consultation with the tribes referred to in subclause (I), shall promulgate interim final regulations specifying the forms of documentation (including tribal documentation, if appropriate) deemed to be satisfactory evidence of the United States citizenship or nationality of a member of any such Indian tribe for purposes of satisfying the requirements of this subsection.

''(III) During the period that begins on the date of enactment of this clause and ends on the effective date of the interim final regulations promulgated under subclause (II), a document issued by a federally recognized Indian tribe referred to in subclause (I) evidencing membership or enrollment in, or affiliation with, such tribe (such as a tribal enrollment card or certificate of degree of Indian blood) accompanied by a signed attestation that the individual is a citizen of the United States and a certification by the appropriate officer or agent of the Indian tribe that the membership or other records maintained by the Indian tribe indicate that the individual was born in the United States is deemed to be a document described in this subparagraph for purposes of satisfying the requirements of this subsection.''.

On page 360, strike lines 21 and 22.

Beginning on page 361, strike line 19 and all that follows through page 362, line 4, and insert the following:

''(1) NO COST SHARING FOR INDIANS FURNISHED ITEMS OR SERVICES DIRECTLY BY OR THROUGH INDIAN HEALTH PROGRAMS.—

''(A) NO ENROLLMENT FEES, PREMIUMS, OR COPAYMENTS.—

''(i) IN GENERAL.—No enrollment fee, premium, or similar charge, and no deduction, copayment, cost sharing, or similar charge shall be imposed against an Indian who is furnished an item or service directly by the Indian Health Service, an Indian Tribe, a Tribal Organization, or an urban Indian organization, or by a health care provider through referral under the contract health service for which payment may be made under this title.

''(ii) EXCEPTION.—Clause (i) shall not apply to an individual only eligible for the programs or services under sections 102 and 103

or title V of the Indian Health Care Improvement Act.

Mr. DORGAN. Mr. President, about 5 hours ago, we were hoping to send that amendment to the desk and have it considered. We hoped to have a vote on it. What we are waiting for at the moment is the remainder of the unanimous consent request. The remainder of the unanimous consent request I will propound, when we determine who offers levels of approval in the Chamber, will be that we have a vote—the way it is constructed is at 3 o'clock, but that was 25 minutes ago—that we have a vote on two amendments.

One will be the managers' amendment I sent to the desk on behalf of myself and Senator MURKOWSKI, bipartisan, I believe, an amendment that does not have objections anywhere in the Chamber because we have resolved those objections, but we will have a recorded vote on that, and then we will have a recorded vote on the amendment that has been offered by Senator COBURN, amendment No. 4034.

My hope is that we will be able to propound a unanimous consent request that will be approved in a few minutes, with a couple-minute debate prior to each vote, and then we will have two votes. Our hope is to begin that at 3 o'clock. My hope remains that will be the case. I will not propound the unanimous consent request at the moment because I understand it has not yet been cleared.

I understand it has now just been cleared, which is great news.

I ask unanimous consent for the following: that the pending amendment, which is the managers' amendment that I just filed on behalf of myself and Senator MURKOWSKI, be set aside and that at 3 p.m. today, the Senate proceed to vote in relation to the amendment, the managers' amendment; that the amendment not be divisible; and that upon disposition of that amendment, the Senate resume the Coburn amendment No. 4034; that there be 2 minutes of debate prior to a vote in relationship to that amendment; and that no amendments be in order to either amendment prior to the vote, with the second vote in sequence 10 minutes in duration.

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

Mr. DORGAN. Mr. President, for the information of Senators, the vote will begin in about 3 minutes, and we will have two votes in sequence.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3906

Mr. MARTINEZ. Mr. President, I wish to speak on amendment No. 3906, which has been pending. I believe I can do that between now and the time of the vote. I ask to be recognized for the time remaining before the vote.

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

Mr. MARTINEZ. Mr. President, after high tax rates, the thing that disturbs Americans the most about their Government is that their tax dollars are too often misspent. Nowhere is this problem more prevalent than in the Medicare Program where fraud is concerned.

Currently, Medicare fraud consumes an estimated $60 billion a year. That is as much as 20 percent of the program lost to criminals scamming the Federal Government.

In South Florida, the region has only 8 percent of the Nation's AIDS patients. Yet 73 percent of Federal AIDS medication payments are sent there. That alone is an estimated $2 billion of fraud.

We have only recently begun to uncover some of the cases of widespread fraud and abuse. An 82-year-old constituent of mine kept getting $10,000 Medicare payment statements. If you looked at the bills, it appeared this elderly woman had artificial knees, ankles, one glass eye, was in a wheelchair, and suffered from diabetes and AIDS. The truth is, she is completely healthy. She had not called on Medicare, and someone else was using her stolen Medicare number.

Her case is typical of many in my State and far too many other States where Medicare fraud abuse has been reported.

Hard-working Americans are outraged by seeing their tax dollars lost to criminal fraud. My amendment to the Indian health bill will double the jail time, double the penalties, and give judges greater discretion in sentencing those who are guilty of Medicare fraud. The message needs to be stronger than a slap on the wrist. It has to be hard time.

But tougher penalties are only a first step. There is a larger problem. We need better oversight, more accountability, and fewer dollars sent to organizations that can't prove they are anything more than a P.O. box. So I call upon my colleagues to join with me in addressing this situation. Help put a stop to the billions and billions of taxpayer dollars padding the pockets of criminals each and every year. We owe it to the American people to handle their money with greater care, and I believe we can do this by just cutting wasteful spending and stiffening the penalties that already exist for fraud cases.

There are a number of cases I can point to in my State, and these are just cases that have come to the attention of my office. Maggie of Sunrise talks about a doctor she had never seen billing Medicare for $2,590 worth of services in July of 2006. Leslie of Punta Gorda reported a fraudulent claim filed using his deceased wife's claim number after her death. The claim was filed in April of 2006, and his wife passed away in March of 2005.

There are many other examples like these. For that reason, I urge passage of my amendment, and I know it may be part of the managers' package, which I think would be a great step forward in stemming the waste, fraud, and abuse in this program.

I thank the Chair.

The PRESIDING OFFICER (Mrs. LINCOLN). The Senator's time has expired.

The question is on agreeing to amendment No. 4082, the managers' amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DORGAN. Have the yeas and nays been ordered on the Coburn amendment?

The PRESIDING OFFICER. There is a sufficient second, and the yeas and nays have been ordered on the Coburn amendment as well.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM) 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 95, nays 0, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—95

Akaka	Dole	Menendez
Alexander	Domenici	Mikulski
Allard	Dorgan	Murkowski
Barrasso	Durbin	Murray
Baucus	Ensign	Nelson (FL)
Bayh	Enzi	Nelson (NE)
Bennett	Feingold	Pryor
Biden	Feinstein	Reed
Bingaman	Grassley	Reid
Bond	Gregg	Roberts
Boxer	Hagel	Rockefeller
Brown	Harkin	Salazar
Brownback	Hatch	Sanders
Bunning	Hutchison	Schumer
Burr	Inhofe	Sessions
Byrd	Isakson	Shelby
Cantwell	Johnson	Smith
Cardin	Kennedy	Snowe
Carper	Kerry	Specter
Casey	Klobuchar	Stabenow
Chambliss	Kohl	Stevens
Coburn	Kyl	Sununu
Cochran	Landrieu	Tester
Coleman	Lautenberg	Thune
Collins	Leahy	Vitter
Conrad	Levin	Voinovich
Corker	Lieberman	Warner
Cornyn	Lincoln	Webb
Craig	Lugar	Whitehouse
Crapo	Martinez	Wicker
DeMint	McCaskill	Wyden
Dodd	McConnell	

NOT VOTING—5

Clinton	Inouye	Obama
Graham	McCain	

The amendment (No. 4082) was agreed to.

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

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4034

The PRESIDING OFFICER. There will now be 2 minutes of debate evenly divided on the Coburn amendment, No. 4034.

The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, this is a pretty simple amendment. What it says is we are going to give the Native Americans what we promised them in our treaties. We are going to give it to them in the same way we deliver security, choice, prosperity, and health care for Members of Congress. We are going to give them an insurance policy. In basics, I think my chairman agrees with it; he does not agree with the way we are doing it at this time. I understand that. What you all should know is three-quarters of the Native American population of this country lives in urban areas; it does not live on the reservation. That is three-quarters.

What this does is fulfill our commitment through giving them access to quality choice and care—not substandard care, not rationed care, but real care.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I oppose the amendment, as does my colleague Senator MURKOWSKI.

Senator COBURN offers some interesting ideas here, but he offers them in the context of saying: We will do some different and additional things with Indian health care, but we will explicitly restrict any additional money that is in the bill itself. That means if you have Indian reservations out in the country someplace, there is an Indian health clinic, and that is the only health care available, I guarantee you they will end up with less money to provide health care to those Indians on those reservations given that restriction in the bill.

For that reason I do not support it, but I look forward to working with my colleague from Oklahoma on ideas of this type.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM) 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 28, nays 67, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—28

Alexander	Coburn	Hutchison
Allard	Corker	Inhofe
Barrasso	Cornyn	Isakson
Bond	DeMint	Kyl
Brownback	Ensign	Martinez
Bunning	Enzi	McConnell
Burr	Grassley	
Chambliss	Gregg	
Sessions	Specter	Vitter
Shelby	Sununu	Warner

NAYS—67

Akaka	Durbin	Nelson (FL)
Baucus	Feingold	Nelson (NE)
Bayh	Feinstein	Pryor
Bennett	Hagel	Reed
Biden	Harkin	Reid
Bingaman	Hatch	Roberts
Boxer	Johnson	Rockefeller
Brown	Kennedy	Salazar
Byrd	Kerry	Sanders
Cantwell	Klobuchar	Schumer
Cardin	Kohl	Smith
Carper	Landrieu	Snowe
Casey	Lautenberg	Stabenow
Cochran	Leahy	Stevens
Coleman	Levin	Tester
Collins	Lieberman	Thune
Conrad	Lincoln	Voinovich
Craig	Lugar	Webb
Crapo	McCaskill	Whitehouse
Dodd	Menendez	Wicker
Dole	Mikulski	Wyden
Domenici	Murkowski	
Dorgan	Murray	

NOT VOTING—5

Clinton	Inouye	Obama
Graham	McCain	

The amendmemt (No. 4034) was rejected.

Mr. DURBIN. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON of Florida. 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. COBURN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 4036

Mr. COBURN. Madam President, I now ask unanimous consent that we have the regular order on Coburn amendment No. 4036.

The PRESIDING OFFICER. Without objection, the amendment is pending.

The Senator from North Dakota.

Mr. DORGAN. Madam President, if I might, the Senator from Oklahoma is intending to debate and discuss amendment Nos. 4032 and 4036, and requests recorded votes on both. First of all, I appreciate his cooperation. I understand he is prepared to initiate that debate. What I would like to suggest is whatever time he needs for that debate, we could probably, by consent, with the consent of Senator MURKOWSKI, agree to a time for both those votes.

I might ask the Senator, how long would he like to debate both amendments?

Mr. COBURN. Probably, Madam President, I will not use more than 30 minutes and probably less.

Mr. DORGAN. Madam President, would it be satisfactory to the Senator from Oklahoma and Senator MURKOWSKI if we set the two votes on amendment No. 4032 and amendment No. 4036 no later than 4:20?

Mr. COBURN. That is 30 minutes for me and none for you.

Mr. DORGAN. Let's make it 4:30, Madam President.

Mr. COBURN. I do not have any problem with that.

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

Mr. COBURN. Madam President, amendment No. 4036 is a real simple amendment. What it says is we are going to prioritize the funds that go into the Indian Health Service. We have had debate all day on whether we are improving Indian health care when we add services but do not add money, and we have not done the structural reforms that need to happen in the Indian Health Service.

We know the Indian Health Service is plagued by rationing on a life-and-limb basis. As to the quality of care we are offering in IHS, for some places it is great, but on average it is less than what we offer other people. Instead of fixing the problem with basic medical services, this bill includes new services. We are not funding the services we do now, and the services we are funding are not at the level they need to be in terms of their quality.

This bill expands the burden of IHS to fund things that in terms of priority are not as important, No. 1, but, more importantly, most have an eligibility avenue with which to get these services through some other Government program. So by supporting this amendment, you are not denying the four new services because they are already available, just not through the IHS.

This amendment would require funding go to what has already been promised to tribal members before we expand to new promises. In other words, before we add new services, let's make sure we are funding the services we are offering now and that we are funding them at a level of quality that is acceptable.

So this would say IHS would have to prioritize basic medical services before paying for new programs. We have talked a lot about the history on this. We know where our problems are. The chairman is trying to move in a direction to help solve some of the problems.

I disagree that we are making the major steps. I think we have to totally reform IHS. I have said that to the chairman. He knows the structural problems that are there. I think when we promise health care, we ought to give it.

We talked earlier today that one in every four Native American women have a baby without any prenatal care. The average number of visits for those who have prenatal care is half what the national average is. So just in prenatal care, in pediatrics, and diabetes we know we are behind the curve. Yet we are going to add new services in the bill that are already available in other ways.

We also know, as the chairman has said, that we spend half per capita on Native Americans than we do on prisoners. We spend less than half than we

do on veterans. We spend a third based on what we spend on Medicare. So we are obviously not there, and a lot of it is money. There is no question about it. But it is not all money. It is structural.

Obviously, that is the reason for my opposition to this bill because I think we have an opportunity to go much further to totally change the structure and quality and delivery and to get a lot of the bureaucracy out. I think we also need to add money. We need to do all three.

This amendment is designed to make IHS prioritize the money. So even though we authorize these programs—this does not eliminate the authorization—it just says you cannot effectively do it until you have funded adequately what you are already promising Native Americans.

What this bill will do, in my estimation, is drain resources available to basic core medical services. It is also going to do something else. Our tribes are getting to be pretty good businessmen. What it is going to do is, it is going to put into individual tribes businesses for these services.

So what is going to happen is, these services are going to be part of the tribal organization business complex but not part of the service, and so we are going to transfer funds outside IHS, transfer IHS moneys into tribal organizations with no guarantees that the money that was spent is going to come back into health care. So if we were to do this, what I would rather is these be IHS services only, rather than out for bid to be utilized that may be not at a competitive bid price so we enhance private profitability rather than tribal health care. So there is that other little problem. Again, if we make new promises, at a time when we are not funding the promises we have, we are not helping the Native American population.

This amendment is about priorities. It is not saying IHS cannot fund these new programs. It is just saying we need to focus on basic medical services first, such as prenatal care. When one in four Native Americans do not have prenatal care, and we are going to add long-term home health care, hospice, DME, and some of these other areas, when we are not taking care of the women who walk in and deliver without prenatal care, it does not make sense.

So I will put this amendment up. I am going to ask for the yeas and nays on amendment 4036. I appreciate the consideration of the chairman and his heart toward Native Americans. But a half promise fulfilled is a promise not kept, and that is where we are on health care. Making us prioritize—in some places we will be able to do this; where we have effective, efficient care, they will have the money to offer these services. In areas where we are not doing well, they should not be expanding into new services when they are not taking care of the services we have today.

So the flexibility is completely up to the IHS. Nothing limits it other than you have to meet the core basic medical needs first before you go into other areas.

With that, I yield the floor and await the response from my chairman. Then I will talk about the other amendment in a moment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, with the permission of the Senator from Oklahoma, let me ask if he might also discuss his second amendment.

Mr. COBURN. Madam President, I will be happy to.

Mr. DORGAN. Thank you very much.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 4032

Mr. COBURN. Madam President, amendment No. 4032, which the chairman has graciously allowed me to discuss at this time, which I also would like to call up and have as the pending order of business under the regular order, is real simple. We do this in a lot of other places, but we do not do it in IHS.

I ask unanimous consent for that.

The PRESIDING OFFICER. The unanimous consent has been granted.

Mr. COBURN. I thank the Chair.

This is a real straightforward amendment. It says if you are a tribal member and you have been the victim of rape or sexual assault, the right to have your assailant tested for HIV and AIDS and other sexually transmitted diseases cannot be denied you. We have done this a lot of times. Most of us agree with that. We think it is the right thing to do when somebody is an assailant and we have people at risk, and not putting those Native Americans into a period of a year waiting or taking medicines they should not have to take because they do not know the status of the person who committed an assault on them.

So it is very straightforward. I will not spend a lot of time on it. I am not trying to inflame the issue. I think it is something Native Americans ought to have that every other American today has.

I yield back and intend to ask for the yeas and nays at the appropriate time.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota.

Mr. DORGAN. Madam President, let me talk for a moment about amendment No. 4032, the HIV mandatory testing issue. I support that, I think, at the request of the victim. I think that is a thoughtful amendment and would have accepted it. I understand the Senator wishes a recorded vote. I understand why that is the case. But I do think it is an amendment that has a lot of merit.

AMENDMENT NO. 4036

With respect to the other amendment, No. 4036, I understand what the Senator is trying to do. I am going to oppose the amendment and vote against the amendment. He is talking about using the funds for essential medical services. Yes, I am all in favor of that. But let me also say that the issue of hospice care and some long-term care issues we have added to this bill—if you visited a hospice care setting, it is pretty hard to take a look at what hospice care is offering dying patients and suggest that is not essential as well.

That is a wonderful health care option that is available to many in this country. What we have tried to do in the Indian Health Care Improvement Act is to expand some services. That is correct. The Senator and I talked a little bit about that this morning. But they are in most cases services that many other Americans have available to them that we would hope and expect would be made available to American Indians as well. My colleague and I both described this morning our interest in adequately funding Indian health care. He said—and I agree, and I said earlier—that about 60 percent of Indian health care is delivered to American Indians, and 40 percent is withheld. That means you have full-scale health care rationing going on. It should be front-page, scandalous headlines in this country. It ought to be trumpeting the news in this country. But it is not. There is a giant sleep going on about what is happening to people out there who are living in the shadows, desperately poor, in many cases an hour, an hour and a half, 2 hours away from the nearest large-scale health care clinic, so their opportunity to get health care is through the Indian Health Service, and we are trying very hard to improve that.

But I understand the purpose of the amendment offered by the Senator. I would hope, however, when we finish doing what he said he is going to do, and what I said I am going to do, and when we talk about what we are really going to fund this year, that we will have sufficient funds; A, that we will have a system we are proud of, that delivers health care to people who are sick and who were promised health care; and B, to fully fund the services that most people expect would be available to them and their loved ones, and that would include hospice care.

Mr. COBURN. Madam President, will the Senator from North Dakota yield?

Mr. DORGAN. I am happy to yield.

Mr. COBURN. Madam President, through the Chair, would the chairman agree a large portion of people who are eligible for Indian health care service today already have these services available to them through another Federal Government program?

Mr. DORGAN. A large portion? I don't know that I would agree with that. I don't believe I would at all.

Mr. COBURN. A large portion of them are Medicaid eligible. As a matter of fact, 27 percent of the funds that go into IHS are people from Medicaid. If they are Medicaid eligible, then they

are eligible for every one of these programs. A large portion are Medicare eligible. A large portion of money that comes into IHS comes from Medicare, and they are also eligible under that. So the majority of our Native American population already have these services available to them under two other programs.

The other question I would ask through the Chair of the chairman is—there are other clinics and IHS facilities, I believe, and please correct me, that are being run well and that will be able to utilize these services for that smaller portion of Native Americans because they will have the funds because they are meeting basic core medical needs now. My amendment doesn't take that away. It just says if you are in an IHS clinic and over half of them already have these services available through another government program, why would we add that when we are not taking care of the diabetes, the dialysis, and every other thing we have?

My question to the chairman is—I would love for him to consider that this is a better way to go rather than blanketly treating everybody the same and that we have to prioritize, and that by having IHS Directors make that priority—in different areas, that is true—in terms of what goes through the tribal government, what we will get is better care.

Mr. DORGAN. Madam President, we look at this and, in many ways, see the same side. I think the Senator from Oklahoma and I see a situation in which gripping poverty exists in many areas, joblessness, inadequate health care. The Senator from Oklahoma is correct there are circumstances—I have been there, I have seen them—where the health care is wonderful. I toured a clinic recently and the doctor—a wonderful doctor at that clinic working for the Indian Health Service, who is very dedicated and by all accounts a terrific doctor—said to me: You know, we are waiting for this new x-ray equipment that is supposed to come. The waiting room is full, by the way. The building is in disrepair, it is an old building, but the doctor is giving me a tour, and he says: We are waiting for this x-ray machine which is really going to help us out.

I said: How long have you been waiting?

He said: Two years.

I said: What is the trouble?

He said: Well, I wish I knew. It is paperwork. Can't get it through the regional office. The money is there. The money is there for it, but we can't get the regional office to get the paperwork done to get the x-ray machine.

So the Senator from Oklahoma and I both know there are circumstances where there is unbelievable bureaucracy that is almost shameful, and nothing gets done. There are other areas where there is sterling medical care by men and women who, in that service, get up every morning and say: I want to make a difference in the lives of people. So all of that exists.

The point I have been trying to make most of today is when you have 40 percent of the health care needs unmet, we are in a desperate situation. We need to fix that.

The Senator from Oklahoma has talked a lot about reform, and I am very anxious, when we get this bill done—we will get it out of the Senate, we will get it to conference, and hopefully get it signed into law by the President. We will, for the first time in nearly a decade, have advanced an improvement in Indian health care. I am very anxious to turn immediately—and the Senator serves on our committee—to work with him and Senator MURKOWSKI from Alaska to say: All right, now, let's put this on a different course with a much bolder, a much bigger bite, to try to figure out how we dramatically improve health care. That would not be done unless we have substantial additional income as well. But income is not going to solve the problem by itself. You need reform.

It is interesting. When the Senator talked earlier today about giving American Indians the opportunity to go someplace with a card and say: Here is my health care coverage—I am in favor of that. But that card would not do much good for somebody who is sick and is living, for example, in Fort Yates, ND, because the only option they have is to go to that Indian Health Service or they can get in the car and drive a fairly long way to find a hospital someplace. So we need to address these issues.

I want the Indian Health Service to be better, to be more effective, to provide better health care for American Indians, and I want to reform the entire system to see if we can establish competition where competition will work. I know Senator COBURN will readily agree there are places in the country where you can't even talk about real competition because you are living way out, way away from any other facilities, and all that exists is the Indian health care facility.

If I might make one additional point I understand why—I quoted Chief Joseph this morning. I understand why American Indians are a little skeptical. They have been lied to, cheated. They have had their agreements in writing, and they haven't been worth the paper on which they are written. It is pretty unbelievable when you think about it. We have all seen this, the promises that were made but never, ever kept. The purpose of today and the purpose of our work is to say: You know what. These were the first Americans and we have certain obligations to them and we must do a better job of meeting those obligations.

So I don't know that I was particularly responsive to the Senator from Oklahoma, but both of us want the same thing, we end up wanting exactly the same goals out of this debate. And my hope is, working together during the next couple of years we will take two steps, both in the right direction and both in a constructive way to help American Indians.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, I just want a few more minutes and then I am through.

The Senator from North Dakota makes a great point: that there are people who are using reservation-based IHS facilities who are essentially trapped. They are trapped. They don't get the option to go somewhere else. What this bill does—and in many of those instances, the core medical needs are not being met. What this bill does is makes sure the core medical needs are going to be met because we are going to add four new services for those people. So now they are trapped in a system that doesn't deliver the quality, doesn't deliver the service, and doesn't deliver the prevention, we are going to make it worse. We are going to make it worse because we are going to add services that are available to half of the Native American population right now through another Government program, and we are going to dilute the resources for the very people who are trapped on reservations.

But the very point is, three-quarters of Native Americans are in an urban area. They are not limited to that. They are not limited at all. They should have had the choice to be able to go wherever they wanted to go today. We turned that down. We had 29 people vote for that—or 28 people vote for that.

I know the chairman is going to work with me to try to get there someday. But that is when you give Native Americans their due and meet our commitments. When they have the same choice, the same security, the same health care that you and I have, then we will have met our commitment under our treaties, and not until then would we have met it.

Mr. DORGAN. Madam President, if the Senator would yield on that point just briefly.

Mr. COBURN. I will yield.

Mr. DORGAN. Do you know why in many cases the urban Indians are a population that is exclusive? Because we went through a period of time when we did these zigzags. At one point in this country we said to the Indian community: You know what. Yes, you are on a reservation. Here is a one-way bus ticket. We want you to leave. So we sent them to the cities. Now we promised them health care back on the reservation. Now we say: You have a bus ticket one way. Go to the city. In fact, the budget request this year once again says: By the way, we don't intend to fund any—we don't intend to fund any health care for urban Indians. Well, we should, and I think we will say to the President that we don't agree with that recommendation. But we have done a lot of egregious things in this country, even with respect to preventing Indians the right to vote for the majority of the history of this country. They didn't

get the right to vote until about 90 years ago or so.

Mr. COBURN. Madam President, I would like to reclaim my time, if I might.

Mr. DORGAN. Yes, of course.

Mr. COBURN. Madam President, I want to make a couple of points because what we have heard is a lot of negative today. I want to say how proud I am of the Cherokees, the Chickasaw, the Choctaw, and the Creek in Oklahoma. I totally disagree with gaming. I think it undermines virtue. I think it is destroying a lot of society. But several of the tribes in my State have invested their dollars—not IHS dollars, their dollars—in health care, and they need to be recognized. Their facilities, most oftentimes, are fantastic, and their care is fantastic. So I don't want us to leave the debate without recognizing some of the vast improvements that where we have failed, the tribes have actually picked it up and supplied it, and that means shame on us because maybe there wouldn't be as much gaming if we were fulfilling the needs. Gaming is not without its societal consequences, regardless of how much we benefit in terms of dollars that come into the Treasury.

So I didn't want us to leave this without recognizing that we have lots of great performance in lots of great areas. We also have lots of great providers and doctors and workers in IHS, but we have some who aren't. We also have some who couldn't get a job anywhere else, some whom nobody else would hire. Yet we will hire them because we are so short, both on funds and needs. That ought not to be there either. If somebody is not competent to practice with the public, they shouldn't be competent to practice at IHS and the same at the VA and the same in our prisons and the same in other areas.

So it is my hope we will look straight forward. It is hard to run against your own chairman on amendments on a bill, and we intentionally did not put up these amendments at the request of the chairman when we were doing the markup on the Indian health care bill.

Again, I will state in finality, and then sit down, these ''improvements'' in many areas will offer some improvement but in many more areas will take away from core medical care that is offered to the very people who aren't getting adequate care today. So it ought to be flexible. It ought to be where the core medical needs are met, we are offering these, and whether or not we shouldn't be offering them because what we are doing is, we are taking that lady who is going to be on dialysis, and we could have prevented it because we are not doing the core medical things and we are looking at the wrong thing. We are taking a gal who has early diabetic neuropathy and we are going to condemn her to a life on dialysis or a kidney transplant, and most of them would not get kidney transplants. They are going to get hooked up to a machine for 8 hours a day because we are—but we are going to feel good about ourselves saying we now have hospice and long-term care, and all of these other things.

I think it is a mistake the way we have done that. It is my main opposition to the bill. I think we have an opportunity to rigorously and tremendously change the structure, the delivery of care. We have an opportunity to change the paradigm under which we treat Native Americans, to prevention. We have talked about suicide on all of the reservations. The chairman and many have been concerned about prevention of that. But we ought to be just as concerned about prevention of all of the other diseases and change the paradigm under which IHS works instead of more of the same.

So with that, I ask for the yeas and nays.

I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, the Senator may seek the yeas and nays on both amendments with one show of hands.

Is there a sufficient second? There appears to be a sufficient second. There is a sufficient second.

Mr. DORGAN. Madam President, I ask unanimous consent that when we do vote at 4:30, we vote on amendment No. 4036 first and amendment No. 4032 second, and that there be 2 minutes between the votes, a minute on each side, and that there be no intervening second-degree amendments.

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

AMENDMENTS NOS. 4070, 4073, 4066, AND 4038 TO AMENDMENT NO. 3899, AND AMENDMENT NO. 4015

Ms. MURKOWSKI. Madam President, I ask unanimous consent that the pending amendments be set aside, and I call up these four amendments on behalf of Senator DEMINT: Nos. 4070, 4073, 4015, and 4066; and I call up amendment No. 4038 on behalf of Mr. VITTER.

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

The clerk will report the amendments, en bloc.

The legislative clerk read as follows:

The Senator from Alaska [Ms. MURKOWSKI], for Mr. DEMINT, proposes amendments Nos. 4070, 4073, 4015, and 4066, en bloc.

The Senator from Alaska [Ms. MURKOWSKI, for Mr. VITTER, proposes an amendment numbered 4038.

The amendments are as follows:

AMENDMENT NO. 4070

On page 309, between lines 19 and 20, insert the following:

''(c) FIREARM PROGRAMS.—None of the funds made available to carry out this Act may be used to carry out any antifirearm program, gun buy-back program, or program to discourage or stigmatize the private ownership of firearms for collecting, hunting, or self-defense purposes.

AMENDMENT NO. 4073

At the end, add the following:

TITLE III—APPLICABILITY

SEC. 3___. INDIAN TRIBES OPERATING CLASS III GAMING ACTIVITIES.

This Act and the amendments made by this Act shall not apply to any Indian tribe carrying out any class III gaming activity (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)).

AMENDMENT NO. 4066

On page 207, strike lines 4 and 5 and insert the following:

care organization;

''(4) a self-insured plan; or

''(5) a high deductible or health savings account plan.

AMENDMENT NO. 4038

On page 294, strike lines 11 through 15 and insert the following:

grams involving treatment for victims of sexual abuse who are Indian children or children in an Indian household.

AMENDMENT NO. 4015

(Purpose: To authorize the Secretary of Health and Human Services to establish an Indian health savings account demonstration project)

On page ____, between lines ____ and ____, insert the following (at the end of title VIII of the Indian Health Care Improvement Act, as amended by section 101(a) add the following):

''SEC. 818. INDIAN HEALTH SAVINGS ACCOUNT DEMONSTRATION PROJECT.

''(a) IN GENERAL.—The Secretary shall establish a demonstration project under which eligible participants shall be provided with a subsidy for the purchase of a high deductible health plan (as defined under section 223(c)(2) of the Internal Revenue Code of 1986) and a contribution to a health savings account (as defined in section 223(d) of such Code) in order to—

''(1) improve Indian access to high quality health care services;

''(2) provide incentives to Indian patients to seek preventive medical care services;

''(3) create Indian patient awareness regarding the high cost of medical care; and

''(4) encourage appropriate use of health care services by Indians.

''(b) ELIGIBLE PARTICIPANT.—

''(1) VOLUNTARY ENROLLMENT FOR 12-MONTH PERIODS.—

''(A) IN GENERAL.—In this section, the term 'eligible participant' means an Indian who—

''(i) is an eligible individual (as defined in section 223(c)(1) of the Internal Revenue Code of 1986); and

''(ii) voluntarily agrees to enroll in the project conducted under this section (or in the case of a minor, is voluntarily enrolled on their behalf by a parent or caretaker) for a period of not less than 12 months in lieu of obtaining items or services through any Indian Health Program or any other federally-funded program during any period in which the Indian is enrolled in the project.

''(B) VOLUNTARY EXTENSIONS OF ENROLLMENT.—An eligible participant may voluntarily extend the participant's enrollment in the project for additional 12-month periods.

''(2) HARDSHIP EXCEPTION.—The Secretary shall specify criteria for permitting an eligible participant to disenroll from the project before the end of any 12-month period of enrollment to prevent undue hardship.

''(c) SUBSIDY AMOUNT.—The amount of a subsidy provided to an eligible participant for a 12-month period shall not exceed the amount equal to the average per capita expenditure for an Indian obtaining items or services from any Indian Health Program for the most recent fiscal year for which data is available with respect to the same population category as the eligible participant.

''(d) SPECIAL RULES.—

''(1) NO DEDUCTION ALLOWED FOR SUBSIDY.—For purposes of determining the amount allowable as a deduction with respect to amounts contributed to a health savings account by an eligible participant under section 223 of the Internal Revenue Code of 1986,

the limitation which would (but for this paragraph) apply under section 223(b) of such Code to such participant for any taxable year shall be reduced (but not below zero) by the amount of any subsidy provided to the participant under this section for such taxable year.

''(2) TREATMENT.—The amount of a subsidy provided to an eligible participant in the project shall not be counted as income or assets for purposes of determining eligibility for benefits under any Federal public assistance program.

''(3) BUDGET NEUTRALITY.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made to carry out the project do not exceed the amount of Federal expenditures which would have been made for the provision of health care items and services to eligible participants if the project had not been implemented.

''(e) DEMONSTRATION PERIOD; REPORTS TO CONGRESS; GAO EVALUATION AND REPORT.—

''(1) DEMONSTRATION PERIOD.—

''(A) INITIAL PERIOD.—The demonstration project established under this section shall begin on January 1, 2007, and shall be conducted for a period of 5 years.

''(B) EXTENSIONS.—The Secretary may extend the project for such additional periods as the Secretary determines appropriate, unless the Secretary determines that the project is unsuccessful in achieving the purposes described in subsection (a), taking into account cost-effectiveness, quality of care, and such other criteria as the Secretary may specify.

''(2) PERIODIC REPORTS TO CONGRESS.—During the 5-year period described in paragraph (1), the Secretary shall periodically submit reports to Congress regarding the success of demonstration project conducted under this section. Each report shall include information concerning the populations participating in the project and the impact of the project on access to, and the availability of, high quality health care services for Indians.

''(3) GAO EVALUATION AND REPORT.—

''(A) EVALUATION.—The Comptroller General of the United States shall enter into a contract with an organization with expertise in health economics, health insurance markets, and actuarial science for the purpose of conducting a comprehensive study regarding the effects of high deductible health plans and health savings accounts in the Indian community. The evaluation shall include an analysis of the following issues:

''(i) Selection of, access to, and availability of, high quality health care services.

''(ii) The use of preventive health services.

''(iii) Consumer choice.

''(iv) The scope of coverage provided by high deductible health plans purchased in conjunction with health savings accounts under the project.

''(v) Such other issues as the Comptroller General determines appropriate.

''(B) REPORT.—Not later than January 1, 2013, the Comptroller General shall submit a report to Congress on the evaluation of demonstration project conducted under this section.''.

Ms. MURKOWSKI. Madam President, if I may take a few moments to speak to some of the issues the Senator from Oklahoma has raised about the prioritization, giving priority to the provision of those basic medical services, medical needs.

I think we all agree that is the first requirement, to make sure those services are provided for. In the State of Alaska, we hear from those most vulnerable in our Alaska Native population, our elderly—the elders in the village who have lived through some pretty incredible times. At the end of their lives, they are certainly seeking basic medical services. Yet we recognize that with the facilities we have available to them, the services we have available to them, the medical professionals we have available to them, it is very difficult to meet all of those needs. So for them, the opportunity for hospice care, assisted living service, long-term care service, or the home or community-based service—that is singled out in the amendment. They are looking at this not as a luxury, or an add-on, certainly, but something that is basic, something that would be fundamental to a quality of life in their final years.

This is a matter for many seniors, not just in the State of Alaska, and for many who are looking to, again, provide for those services at a level and in a manner that is culturally relevant and appropriate—the community-based services, home-based services. I think it is important that we recognize we are not without limitation when we are talking about the services that are provided to American Indians and Alaska Natives. You have heard time and time again on the Senate floor that we are not meeting their needs; that we are funding at 60 percent; that there is a curtailment or a shortage in services based on the resources. So when we are able to enhance the quality of life, whether it is through assistance, such as long-term care services or assisted living or the community-based services, or whether it is enhancing the end-of-life care, as we do throughout this Indian Health Care Improvement Act, these are the things we ought to be encouraging, that we ought to be moving forward with in a positive manner.

So I stand in opposition to the amendment of the Senator from Oklahoma which says we cannot attend to any of these quality-of-life issues—if it is in your final days—unless and until the Secretary has given priority to the provision of these basic medical services to all Indians.

It is, again, a situation where we want to attempt to do as much as we possibly can. But I think if you were to tell the elder in the community of Buckland that somehow or other services to help her in her final years, to die gracefully and with dignity in her home, is something she doesn't qualify for, is not eligible for, I think we would all find that cuts to the quick.

Madam President, I understand that there are several Members who are here and wish to speak briefly on FISA for a few minutes before we move to our vote. I am prepared to yield to the Senator from Missouri.

FISA

Mr. BOND. Madam President, I will take a minute to update my colleagues on some information we received from the Director of National Intelligence in an open hearing that is going on in Hart 216 right now. I thought it was important to clarify some points that he made in response to some very important questions raised by Chairman ROCKEFELLER.

Chairman ROCKEFELLER asked what would happen if FISA expires—as it does on February 15—without being renewed. He asked, could these collections not continue? There is a very important ''yes, but''—for acquisitions that have been ordered by the FISA Court which have years in length; it is possible that those could continue. But the major problem the Director sees and the attorneys with him see is that if they needed to change targets, if they needed to change methods, if they needed to change means by which they gathered the information, they would not be able to do so.

Furthermore, he highlighted a very real problem having to do with the private sector. As we have said on the floor before, the private sector carriers are absolutely essential to the operation, not only of FISA, foreign intelligence surveillance, but for work with the FBI and others on criminal matters. The fact that we have left the telecom carriers, that are alleged to have participated in the President's lawful terror surveillance program without liability protection, they are being advised by their general counsel of their responsibility under Sarbanes-Oxley, and others, that they could only cooperate with a fresh court order. Since there is no authority for additional court orders, they have a grave question as to whether they are risking not only their firm's reputation but under Sarbanes-Oxley certain duties to shareholders. That is why he felt it was necessary to get this measure that has passed the Senate implemented by the House.

I also noted in my comments that the House passed its bill almost as long ago as the Senate passed its bill. At that time, the intelligence community said it was not workable, that the Rockefeller-Bond proposal that passed overwhelmingly 2 days ago was the only thing that was workable; and the fact that the House says they don't have time to work on it ignores the fact that they have known for a couple of months that they were going to have to make significant revisions in their measure if they wanted it to be passed and signed into law. So my sympathies for the House. I understand they are pressed for time, but they knew this was coming. They have a measure before them that could be passed, which I hope they will pass.

One other thing. I asked the Director about some of the very misdirected, improper, wrong and, in some instances, irresponsible suggestions made on the floor about the tactics that the CIA may use in questioning high-value detainees. The DNI made it clear, as I attempted to make clear yesterday, all of the things banned by the Army Field Manual, such as burning, electrocuting, beating, sexual harassment—all

those things are not only repugnant but they are not permitted to be used by any of our intelligence agencies. He reiterated that waterboarding is not permitted under the political guidelines that include legislation and that we have passed here in direct orders.

So what was done yesterday does not prevent torture. That is prevented already. It doesn't prevent cruel, degrading, and inhumane interrogation techniques. It does not prevent other cruel, degrading, or inhumane acts by the intelligence agencies. Those are already prohibited.

What the measure that was passed yesterday does—were it to be signed into law, and I certainly hope it will not be—would be to deny the intelligence community the ability to use techniques that are similar to but different from the techniques authorized in the Army Field Manual. These enhanced techniques have been used only on roughly a couple of dozen detainees in the custody of the CIA. They are lawful, and they have produced some of the most important intelligence that the intelligence community has gathered to identify high-level members of al-Qaida and other terrorist organizations, and to interfere, impede, and stop terror attacks directed not only at our troops abroad, our allies, but the United States.

Unfortunately, some people were misled by comments that were bordering on irresponsible on the floor yesterday, to say that we banned torture, cruel, inhumane, and degrading conduct. That is not what happened. We tied the hands of the CIA with the purported provision that would severely limit their ability to gain information using totally lawful techniques in questioning high-value detainees. Rather than being a blow for freedom, reaffirming our values, it merely proposed to cripple our intelligence collection.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I commend the ranking member and chairman of the Select Committee on Intelligence for the outstanding work they have done on this critical piece of legislation, passing it in the Intelligence Committee by a vote of 13 to 2, which was no easy feat. This passed in the Senate by a strong bipartisan vote of 68 to 29, I believe. It is about as strong a bipartisan vote as you can possibly get. This is a well-thought-out piece of legislation that, once sent over to the House of Representatives, we were told the House of Representatives, rather than to deal with this legislation, would simply decide to fold their tent and go home. That is the height of irresponsibility.

The Senator from Missouri described why it is so important for us to be able to listen to our enemies: because, simply, it saves American lives. We learned a harsh lesson on September 11, 2001, which is that we are not safe even within our own shores.

There are those who believe in a radical ideology that celebrates the murder of innocent men, women, and children, and who are willing to use instruments of destruction, whether they be primitive tools such as flying an airplane into a building, or chemical, biological, or nuclear weapons—whatever they can get—to kill innocent civilians. We have to do everything in our power to protect ourselves. Thank goodness, due to the noble work of our men and women in uniform who are fighting in places such as Afghanistan, Iraq, and elsewhere around the world, we are keeping the enemies of the United States on the run.

The best way we can deter these terrorist attacks is to listen in on conversations and communications. That is the only way we are going to be able to continue to do it. For the House of Representatives to know that they are causing our intelligence community to go deaf to the communications of terrorists who are plotting attacks against the United States is the height of irresponsibility. I hope it is not true and that they reconsider.

My hope is they will come back and they will pass this important legislation that will encourage our telecommunications industry to cooperate with the lawful requests of the Commander in Chief as certified by the chief law enforcement officer of the United States, and that is the Attorney General, so we can continue to listen to these communications in a lawful and legal way and protect the American people. For the House of Representatives to refuse to take up this matter and to vote on it is, again, I say, the height of irresponsibility, and it endangers American lives.

I yield the floor.

AMENDMENT NO. 4036

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4036.

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 California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM) and the Senator from Arizona (Mr. MCCAIN).

The result was announced—yeas 21, nays 73, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—21

Alexander	Cornyn	Isakson
Allard	DeMint	McConnell
Barrasso	Ensign	Sessions
Brownback	Enzi	Shelby
Burr	Grassley	Sununu
Chambliss	Gregg	Vitter
Coburn	Inhofe	Warner

NAYS—73

Akaka	Bayh	Biden
Baucus	Bennett	Bingaman
Bond	Harkin	Nelson (NE)
Brown	Hatch	Pryor
Bunning	Hutchison	Reed
Byrd	Johnson	Reid
Cantwell	Kennedy	Roberts
Cardin	Kerry	Rockefeller
Carper	Klobuchar	Salazar
Casey	Kohl	Sanders
Cochran	Kyl	Schumer
Coleman	Landrieu	Smith
Collins	Lautenberg	Snowe
Conrad	Leahy	Specter
Corker	Levin	Stabenow
Craig	Lieberman	Stevens
Crapo	Lincoln	Tester
Dodd	Lugar	Thune
Dole	Martinez	Voinovich
Domenici	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	Wicker
Feingold	Murkowski	Wyden
Feinstein	Murray	
Hagel	Nelson (FL)	

NOT VOTING—6

Boxer	Graham	McCain
Clinton	Inouye	Obama

The amendment (No. 4036) was rejected.

AMENDMENT NO. 4032

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided on Coburn amendment No. 4032.

The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, this is a straightforward amendment that says when somebody has been abused or sexually assaulted, they have the right, postindictment, to have the person who assaulted them tested for HIV and sexually transmitted diseases. It is current law in many other areas, and I would appreciate your support.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I support the amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered on amendment No. 4032. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM) and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—94

Akaka	Cantwell	Dodd
Alexander	Cardin	Dole
Allard	Carper	Domenici
Barrasso	Casey	Dorgan
Baucus	Chambliss	Durbin
Bayh	Coburn	Ensign
Bennett	Cochran	Enzi
Biden	Coleman	Feingold
Bingaman	Collins	Feinstein
Bond	Conrad	Grassley
Brown	Corker	Gregg
Brownback	Cornyn	Hagel
Bunning	Craig	Harkin
Burr	Crapo	Hatch
Byrd	DeMint	Hutchison

Inhofe	McConnell	Smith
Isakson	Menendez	Snowe
Johnson	Mikulski	Specter
Kennedy	Murkowski	Stabenow
Kerry	Murray	Stevens
Klobuchar	Nelson (FL)	Sununu
Kohl	Nelson (NE)	Tester
Kyl	Pryor	Thune
Landrieu	Reed	Vitter
Lautenberg	Reid	Voinovich
Leahy	Roberts	Warner
Levin	Rockefeller	Webb
Lieberman	Salazar	Whitehouse
Lincoln	Sanders	Wicker
Lugar	Schumer	Wyden
Martinez	Sessions	
McCaskill	Shelby	

NOT VOTING—6

Boxer	Graham	McCain
Clinton	Inouye	Obama

The amendment (No. 4032) was agreed to.

The PRESIDING OFFICER. The Republican leader.

FISA

Mr. MCCONNELL. Mr. President, we have a serious crisis confronting our country as a result of the House of Representatives' refusal to take up the Senate-passed Foreign Intelligence Surveillance Act. We know for a fact the following: We know that the Senate approved yesterday, with 69 votes, a Foreign Intelligence Surveillance Act crafted by Senator ROCKEFELLER and Senator BOND that came out of the Intelligence Committee 13 to 2. This is about as bipartisan as it ever gets around here. We know in addition this bill is the only bill that can pass the House of Representatives. They took up yesterday a 21-day extension of existing law, and it was defeated. It was defeated because there were 20 to 25 House Democrats who didn't want the bill at all, want it to die, want to walk away from it and leave the American people unprotected.

In fact, there is a bipartisan majority for the Senate-passed bill in the House, and that is the only bill for which there is a bipartisan majority in the House. Now we have all learned that the House of Representatives is going to close up shop and simply leave town, arguing that somehow allowing this law to expire will not harm America.

We know that at the heart of this struggle is retroactive liability for communications companies that stepped up, in the wake of the 9/11 disaster, at the request of the Government, to help protect us from terrorism. As a result, there are numerous lawsuits pending against these companies, I assume largely by the American Civil Liberties Union. The CEOs and the boards of directors of these companies have a fiduciary responsibility to their shareholders. These lawsuits have the potential to put them out of business. As a result of doing their duty and responding to the request of the President of the United States to help protect America, they run the risk of being put out of business. That is what is before us. This retroactive liability problem continues. It is not solved by continuation of existing law.

In addition, with the law expiring, it hampers opportunities prospectively in the future to surveil new terrorist targets overseas. So the notion that somehow no harm is done by allowing the law to expire is simply incorrect. In fact, it borders on outrageous.

This was going to be another example of bipartisan cooperation on behalf of the American people. We saw it at the end of the year last year when we passed a bipartisan AMT fix without raising taxes on anybody else. We passed an energy bill without a tax increase and without a rate increase. We met the President's top line on the appropriations bills. And, yes, we appropriated $70 billion for Iraq and Afghanistan without any kind of micromanagement. At the beginning of this year, we came together. It was a bit challenging in the Senate, but we came together and passed a bipartisan stimulus bill to try to deal with our slowing economy. We did it in record time. In fact, the President had a signing ceremony 2 days ago.

I am wondering why this new bipartisan spirit we experienced in December and again in January is breaking down on a matter that is extraordinarily important to protecting the American people. It is absolutely irresponsible for the House of Representatives to simply throw up its hands and leave, particularly when the only measure that enjoys a bipartisan majority in the House is exactly what enjoyed a bipartisan majority in the Senate. It is the only measure that can pass the House. So the refusal of the House leadership to take up and pass the only bill that could possibly pass is an act of extraordinary irresponsibility. Nothing else would pass over there.

I don't know why the House is even thinking about leaving town. They have an important responsibility to help protect the American people. The opportunity is right before them, and they will not take it.

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

Mr. MCCONNELL. I am happy to yield the Senator from Texas for a question.

Mr. CORNYN. I ask the distinguished Republican leader whether the voluntary cooperation of the telecommunications companies that have cooperated at the request of the Government and upon certification by the chief law enforcement agent of the country, the Attorney General, is in jeopardy, if we merely continue the current law as opposed to passing the bipartisan Senate bill? And if that is the case, doesn't that just as effectively deny us access to terrorist communications as if we did not pass the law itself?

Mr. MCCONNELL. My understanding is the question suggests the answer. The leadership of these companies has indeed a Hobson's choice, two bad alternatives. They either continue to respond to the request of the American Government to protect the homeland and then run the risk of squandering all the assets of their companies and, thereby, generating a lot of shareholder lawsuits against the directors for violating their fiduciary responsibility. It is a terrible position to be put in. They are entitled to be able to cooperate with the request of our Government and not squander all the assets of their companies.

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

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

Mr. MCCONNELL. I yield to my friend from Texas.

Mr. CORNYN. Mr. President, I would like to ask the distinguished Republican leader if, in fact, because of the burden of these lawsuits, some 40 different lawsuits against any telecommunications companies that may have participated, if, in fact, they chose not to participate in this program, is there any other option available to the intelligence authorities to listen in on communications between terrorists who are bent on wreaking havoc, death, and destruction on the American people? Is there anywhere else to go?

Mr. MCCONNELL. I don't think so, Mr. President. This is the only solution to the problem. What is tragic, we know as a result of a letter from the so-called blue dog Democrats, the more conservative Democrats in the House, to Speaker PELOSI for sure that there is a bipartisan majority in the House for passing the bill the Senate passed. This is what the blue dog Democrats had to say to the Speaker.

Following the Senate's passage of a FISA bill, it will be necessary for the House to quickly consider FISA legislation to get a bill to the President before the Protect America Act expires.

That, of course, will be Saturday.

We—

Referring to the blue dog Democrats——

fully support the Rockefeller-Bond FISA legislation, should it reach the House floor without substantial change. We believe these components will ensure a strong national security apparatus that can thwart terrorism across the globe and save American lives in our country.

The blue dog Democrats, coupled with House Republicans, make it absolutely certain there is a bipartisan majority for our bill in the House.

Further, the consequences of not passing such a measure could place our national security at undue risk.

This is 21 blue dog Democrats in the House requesting the Speaker to take up the bill that passed the Senate with 69 votes, obviously an overwhelmingly bipartisan vote, pass it and send it to the President for signature. This refusal to act is stunning, almost incomprehensible.

Mr. CORNYN. Will the Senator yield for one final question?

Mr. MCCONNELL. I will.

Mr. CORNYN. The Republican leader is aware that the House of Representatives only recently had widely publicized hearings into the use of steroids

and human growth hormone by baseball players. There has also been an action taken recently to hold a former White House counsel and the Chief of Staff of the President in contempt. Yet there appears to be no time available on the House calendar to do things that actually would protect the lives of the American people. Perhaps it is an obvious answer, but it would seem to me to be clear that this ought to be a high priority. Before we get to these kinds of political machinations or perhaps publicity stunts, we ought to first protect the security of the American people by passing this bipartisan legislation.

Mr. MCCONNELL. Mr. President, it is my understanding that the House was dealing with steroid use in baseball and trying to punish some White House official over some internal dispute. It does strike me that is a strange use of time, when we are 2 days from the expiration of arguably the most important piece of legislation we have passed since 9/11 to protect us here at home. It is no accident that we haven't been attacked again since 9/11. There are two reasons for it. One is, we went on the offense and have had great success in Afghanistan and Iraq, killing a lot of terrorists, many of them at Guantanamo, which I happen to think is a good place for them. A lot of the rest of them are on the run. I am often asked: We don't have Osama bin Laden. I say: Well, we wish we did. But I can assure you, he is not staying at the Four Seasons in Islamabad. He is in some cold cave somewhere looking over his shoulder, wondering when the final shoe is going to drop. So going on offense was an important part of protecting America and also this extraordinarily significant legislation about which we have had testimony from the highest officials that it has actually helped us thwart attacks against our homeland. There isn't anything we are doing that is more important than this, certainly not looking at steroid use in baseball. As important as that may be, it certainly does not rise to this level, or censoring White House officials.

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

Mr. MCCONNELL. I yield to my friend from Arizona for a question.

Mr. KYL. Mr. President, the first question I have is: Could the intelligence community acquire new targets, if the Protect America Act expires, without going to the FISA Court for some kind of an additional warrant?

Mr. MCCONNELL. Mr. President, it is my understanding they will not be able to do that. So in addition to the retroactive liability issue, which clearly is not solved by failing to act, we have this problem that the Senator from Arizona has raised with regard to new targets. We are clearly more vulnerable as a result of allowing this legislation to expire, which will happen Saturday if the House of Representatives does not act.

Mr. KYL. If the Senator will continue to yield, my recollection of the words of Admiral McConnell, Director of National Intelligence, is that—and I ask the leader to verify if I recall this correctly; I think I am recalling it correctly—it doesn't matter whether the Protect America Act expires or does not expire or is simply reauthorized in its exiting form; the reality is, unless a new law is passed that contains the retroactive liability protection feature, it will become or is becoming increasingly difficult for the telecommunications companies to provide the service the U.S. Government needs them to provide to acquire this intelligence.

I wish to make sure I am not misstating this, that it is increasingly difficult for these telecommunications companies to provide the service our Government needs to collect this intelligence.

Mr. MCCONNELL. My understanding is, the Senator from Arizona is correct. It is not exactly that these public, spirited corporate leaders do not want to help prevent terrorist attacks. It is that the exposure to their companies as a result of these lawsuits runs the risk of destroying the company and then opening them up to shareholders' suits for irresponsible actions or violations of their fiduciary responsibilities to their shareholders.

They are in an impossible position. We have, in effect, put them in an impossible position by failing to provide for them the retroactive immunity from liability they clearly deserve. These were public, spirited Americans responding to a request from the Government to help protect us at home. What they got for it was a couple of scores of lawsuits.

Mr. KYL. I thank the leader.

Mr. REID addressed the Chair.

Mr. MCCONNELL. Mr. President, I still have the floor.

Mr. REID. I am sorry about that.

Mr. MCCONNELL. But I will be happy to yield.

Mr. REID. I did not want to interrupt the distinguished Republican leader. Have you finished?

Mr. MCCONNELL. I will be happy to yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The majority leader is recognized.

Mr. LEAHY. Mr. President, will the distinguished majority leader yield for a question from me?

Mr. REID. Sure.

Mr. LEAHY. Mr. President, I tried to get the distinguished Republican leader to yield, but he was unwilling.

Let me ask the distinguished majority leader, is it not a fact that these public, spirited telephone company owners are threatening to turn off wiretaps, according to the press accounts, that have been legally ordered through search warrants because the U.S. Government has failed to pay them millions of dollars, and does not pay them the millions of dollars? I just wonder if any of the legislation we are talking about might be mandating our own Government to pay the bills for the wiretaps.

I ask that only because it seems this public spiritedness goes one way if they want to be immunized or the administration wants to be immunized from anybody asking them questions, but it goes a different way if it comes down to the question of getting paid.

Mr. REID. My understanding is, there are millions of dollars owed to the telephone companies, Mr. President.

Mr. LEAHY. Thank you, Mr. President.

Mr. REID. Mr. President, my friend from Texas talked about a publicity stunt. That is what we have, but it is inverse. The publicity stunt is all from the White House, supported by the people in the Senate, the Republicans, who always walk lockstep with whatever President Bush wants.

First of all, Mr. President, legal scholars are almost uniform in saying that existing orders are broad enough and they would be broad enough for the next year. Whatever is happening now is good for next year. In fact, if someone disagrees with that, you have existing FISA law that allows application for an emergency.

Mr. President, let me say this: I sent to the President of the United States today a letter. Let me read this:

> Dear Mr. President:
>
> I regret your reckless attempt to manufacture a crisis over the reauthorization of foreign surveillance laws. Instead of needlessly frightening the country, you should work with Congress in a calm, constructive way to provide our intelligence professionals with all needed tools while respecting the privacy of law-abiding Americans.
>
> Both the House and the Senate have passed bills to reauthorize and improve the Protect America Act. Democrats stand ready to negotiate with Republicans to resolve the differences between the House and Senate bills. That is how the legislative process works. Your unrealistic demand that the House simply acquiesce in the Senate version is preventing that negotiation from moving forward.
>
> Our bicameral system of government was designed to ensure broad bipartisan consensus for important laws. A FISA bill negotiated between the House and the Senate would have firmer support in Congress and among the American people, which would serve the intelligence community's interest in creating stronger legal certainty for surveillance activities.
>
> That negotiation should take place immediately. In the meantime, we should extend the current Protect America Act. Earlier this week you threatened to veto an extension, and at your behest Senate Republicans have blocked such a bill. Yesterday every House Republican voted against an extension.

So it is obvious the marching orders have come from the White House. That was a paraphrase from me. That was not in the letter. I continue the letter:

> Your opposition to an extension is inexplicable. Just last week, Director of National Intelligence McConnell and Attorney General Mukasey wrote to Congress that ''it is critical that the authorities contained in the Protect America Act not be allowed to expire.''

In commentary, Mr. President, I say this is from the head of the National Intelligence Agency, Director McConnell, and General Mukasey, our Attorney General. They said:

[I]t is critical that the authorities contained in the Protect America Act not be allowed to expire.

Similarly, House Minority Leader Boehner has said ''allowing the Protect America Act to expire would undermine our national security and endanger American lives, and that is unacceptable.'' And you yourself said at the White House today—

That is today, Thursday—

''There is really no excuse for letting this critical legislation expire.'' I agree.

I agree, Mr. President.

Nonetheless, you have chosen to let the Protect America Act expire. You bear responsibility for any intelligence collection gap that may result.

Fortunately, your decision to allow the Protect America Act to expire does not, in reality, threaten the safety of Americans. As you are well aware, existing surveillance orders under the law remain in effect for an additional year, and the 1978 FISA law itself remains available for new surveillance orders. Your suggestion that the law's expiration would prevent intelligence agents from listening to the conversations of terrorists is utterly false.

In sum, there is no crisis that should lead you to cancel your trip to Africa. But whether or not you cancel your trip, Democrats stand ready to negotiate a final bill, and we remain willing to extend existing law for as short a time or as long a time as is needed to complete work on such a bill.

I signed that ''Harry Reid.''

Mr. President, the President has created a crisis. As I have said on the Senate floor, during the past 7 years he has become increasingly proficient at scaring the American people. That is what he is trying to do again today. Cancel his trip to Africa for this? But we, Mr. President, are willing to work with him. The expiration of the law stands on the shoulders of one person: George Bush. I am sure his ear has been whispered in several times in the last week or so by the Vice President. But the President is the one responsible ultimately. He has instructed Republicans in the House not to agree to any extension, and obviously the Senate Republicans also.

UNANIMOUS CONSENT REQUEST—S. 2615

So, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 571, S. 2615; the bill be read a third time and passed, and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object.

Mr. REID. This is a 15-day extension.

Mr. MCCONNELL. Yes. Reserving the right to object, there is no need for an extension. This current law expires Saturday. We know 68 Members of the Senate have already voted for a Protect America Act that would extend the law for 6 years. We know a majority of the House of Representatives, on a bipartisan basis, thinks that law ought to be taken up and passed. That is what we ought to be doing.

I am sure the Democrats in the House are grateful to their good friend, the majority leader, for trying to protect them from their actions. But the fact is, there is only one reason we have a crisis. It is because the House Democratic leadership refuses to act on a bill that enjoys bipartisan majority support in the House of Representatives that we have already passed overwhelmingly. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—H.R. 3773

Mr. REID. Mr. President, I ask unanimous consent that the Senate request the House to return the papers of H.R. 3773, FISA legislation; and that if the House agrees to the request, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, with no intervening action or debate.

Is it my understanding the first request was objected to. Is that right?

The PRESIDING OFFICER. There was objection. Objection was heard.

Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object, there is no need for a conference when you have an overwhelming bipartisan majority of the Senate in favor of the bill and a bipartisan majority of the House in favor of the same bill that the Senate has already passed. There is no need to go to conference because we know where the majority of the Senate is and we know where the majority of the House is. Why would we want to have a conference when the work the Senate has done, the Rockefeller-Bond bill, is supported by a bipartisan majority in the House? Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The majority whip.

Mr. DURBIN. Mr. President, what we are witnessing is not a crisis in security. It is a crisis in logic. How can the Republican leader stand here and argue how endangered America would be if we allowed this law to expire and then object to extending the law? How can the minority leader, Senator MCCONNELL, stand here and argue that we should pass this legislation and then object when the majority leader asks for a conference committee?

This is not a crisis in security. It is a crisis in logic. This is a manufactured political crisis by the White House and the Republican leaders. If the Republican leader was so focused on giving this power to the President, he could have said, ''I do not object,'' when the majority leader asked for a 15-day extension.

But, no, they want a press release. They want something to put in front of the American people to take their minds off the state of our economy, to take their minds off the fact that we are just, unfortunately, a few lives away from losing 4,000 soldiers in this war in Iraq. They want to manufacture a security crisis.

The Senator from Kentucky should know—and I am sure he has able staff to alert him—the law, as it currently exists, the FISA law—even if we do not change it—gives ample authority to this President to continue to monitor the conversations of those who endanger the United States.

But, instead, as Senator Harry Reid has said repeatedly, this President is trying to make America afraid—make America afraid. I thought there was a great leader who said once: The only thing we have to fear is fear itself. It turns out that it is fear itself that is motivating this Republican leadership. If they would have provided 30 votes yesterday in the House of Representatives, this law would have been extended. But they had their marching orders from the White House to vote no, and they did. So the attempt to extend it failed. If only 30 Members on the Republican side in the House had stood up and voted to extend the law, it would have happened.

If the Republican minority leader, Senator MCCONNELL, had not objected just moments ago to the unanimous consent request of Senator REID, the Democratic leader, this law would have been extended.

It is obvious to those following the debate, the crisis is in the logic on the Republican side. You cannot have it both ways. You cannot complain that the law is going to expire, and then object to an extension. It does not work that way. Even at the University of Louisville, it does not work that way. Their philosophy department would tell you that does not track, it does not follow.

So I would urge the Senator from Kentucky, if you really are concerned about whether this law is extended, please reconsider your objection to extending this law, as Senator REID has asked repeatedly. I think the American people know what is going on here. This is not about security. This is about political cover. This is about manufacturing a political argument and manufacturing a crisis—a crisis of the White House's own creation. The President and his party bear full responsibility if any intelligence gaps result.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Now, Mr. President, facts are a stubborn thing—a very stubborn thing—and I am sure the Democrat leadership over in the House appreciates the efforts being made by the majority leader and the majority whip to protect them from the obvious. The obvious is—and they know this even at the University of Illinois—that the majority of the Senate has spoken, an overwhelming majority of the Senate, not just on final passage which was 68 to 29, and cloture, which was 69 to 29, but also the Feingold amendment

was defeated 63 to 35, the Dodd amendment 67 to 31, the Feingold amendment 60 to 37, the Specter-Whitehouse amendment 68 to 30. This is not close. This bill went out of the Senate with a riproaring, bipartisan majority. And we know for a fact—and facts are a stubborn thing, I say to my good friend from Illinois—we know for a fact that the Rockefeller-Bond bill is supported by a bipartisan majority in the House of Representatives. We know that. It is a matter of simple addition. So why would we want to have a short-term extension to provide an opportunity to resolve a dispute that doesn't exist?

The majority has spoken in the Senate. The majority will speak in the House if given the opportunity to speak. They are being denied the opportunity to speak because the House runs in a different way from the Senate, and the House leadership can simply refuse to take up a matter that is supported by a bipartisan majority in the House. In this particular instance—talk about a publicity stunt or creating a crisis—what created the crisis was the refusal of the House of Representatives to act. Now, the notion that somehow they didn't have time—we have been dealing with this issue since last August—since last August. The House had previously sent a bill over here that was unacceptable. We are all familiar with the subject matter.

It is time to let a majority of the House of Representatives speak—legislate. They are waiting there to be given permission to ratify the fine work led by Senator ROCKEFELLER and Senator BOND here in the Senate and ratified by a total of 68 out of 100.

So we have a crisis, but the crisis is created by the majority in the House and its refusal to accept the obvious, which is that a majority of the Congress wishes to pass the legislation in the form that will achieve a Presidential signature.

Mr. President, I yield to the Senator from Texas for a question.

Mr. CORNYN. Mr. President, I ask the distinguished Republican leader—the majority whip has said there is some sort of crisis in logic, but I ask the minority leader to respond. Isn't the crisis in logic that the telecommunications carriers, whose cooperation is absolutely essential to the continuation of our ability to listen in on communications between terrorists, isn't that what is at risk here, by merely extending the current law and finally to come to grips with the bipartisan legislation that passed the Senate and is supported by a bipartisan majority in the House?

Mr. MCCONNELL. Mr. President, I say to my friend from Texas, he is entirely correct. There are multiple lawsuits pending against the companies. They are surely being pressured by their shareholders and their boards of directors on the issue of whether continued cooperation means the demise of the companies. The status quo, as the Senator from Texas indicates, is not acceptable. Not only that, but we know for a fact that the continuation of the status quo hampers the ability to go up on new targets prospectively, so we not only have a deteriorating situation in terms of continued cooperation from the communications companies—not because they are not public-spirited citizens, not because they don't want to help America, but because they run the risk of squandering all the assets of their companies and enhanced exposure to new actions that might occur by terrorists.

So the status quo is clearly not acceptable, I say to my friend from Texas. I think his question suggests the answer.

This is a very serious matter and I regret that we are where we are. We had gotten off, I thought, to a pretty good bipartisan start this year. I had hoped—and frankly expected—that we would be having another signing ceremony down at the White House on the Rockefeller-Bond bill in the next few days and we could breathe easy that we had done our job and had protected the American people to the maximum extent possible for the foreseeable future.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, facts are stubborn. The facts are that within the last few days, we received a communication from the Attorney General of the United States and the man who is the Director of National Intelligence saying: ''It is critical the authorities contained in the Protect America Act not be allowed to expire.'' That is a fact. That was followed up with a statement by the House minority leader who said: ''Allowing the Protect America Act to expire would undermine our national security and endanger American lives, and that is unacceptable.'' And today, the President of the United States said: ''There is really no excuse for letting this critical legislation expire.''

Those are the facts. So when we ask to accomplish what they want, there is an objection.

It is very clear, this is not an effort by the White House to protect the American people, it is an effort to protect the phone companies. It is not the American people.

We heard from the Attorney General, we heard from the Director of National Intelligence, the minority leader of the House, and the President of the United States. We agreed to do what they want to do to try to extend. The Republicans were given the orders not to do what they wanted. Those are the facts.

Now another issue that is very important: The majority in the House of Representatives and the majority in the Senate have both spoken. A basic elementary rule of this Government is that we have a bicameral legislature. We have the House and the Senate. In November, the House passed by a majority what they thought should happen in the way of extending this. We, a few days ago, decided what we thought we should do. It is elementary that after that happens, there must be a conference. They won't let us go to conference—''they'' meaning the Republicans. So a majority of the House voted in November for a different bill. That is why we need a negotiation. That is why we need a conference. That is how a bill becomes law. That is the way it is. That is the law. We have already decided that facts are stubborn. Clearly, if we were arguing this case to a jury—and I think probably as well the American people—they probably know that this is an effort by the President to scare us and in exchange for that, he wants to try to take care of the phone companies, not the American people.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, my name has been invoked frequently here over the last several weeks as passing a bill which was not favored by the majority of the people of my aisle, and the phrase actually was used by the majority leader, who is never wrong, that we did what the President wanted.

I didn't do what the President wanted. I did what I thought was the right thing to do. I was joined by a variety of my colleagues, including the Presiding Officer, who reserved the right to have other views on the floor, which he did, but ended up voting for the bill.

What absolutely baffles me is that we are literally—we can do this FISA bill. I am meeting tomorrow morning with the chairman of the House Intelligence Committee, who may be the only House member in town—I have no idea, but I don't care because he is the chairman—on what we can do to save this. I am absolutely convinced that we can have—in the hearing this afternoon, the Presiding Officer heard me put this to the Director of National Intelligence, who couldn't answer it because it was not a policy question, but more of a political question. I said: You are going to get the majority of your information all the way through August. The President praised our bill and then came out the next day and said: Of course, if the House doesn't pass it, we are going to lose our intelligence and we will be vulnerable to the terrorists. That was a misstatement, I think an annoying misstatement.

I don't understand. I simply don't understand, if something is good and if the President is willing to sign a bill which this Senator in his conscience feels is right, and it takes 15 days to do it, what the minority leader needs to understand—and he served in the House. I am sure he understands that they have now been jammed twice. They have been jammed. There is something called human nature, and it is not illegal to talk about human nature on the floor of the Senate. They have been jammed. They have been

pushed down to a 2-day period or a 3-day period when they had to make a decision. They resent that. But if they were given a period of time, they would come, in my judgment, to where we are, and the bill would go to the President and he would sign it.

Now, let me say something more. What people have to understand around here is that the quality of the intelligence we are going to be receiving is going to be degraded. It is going to be degraded. It is already going to be degraded as telecommunications companies lose interest. Everybody tosses that around and says: Well, what do you mean? I say: Well, what are they making out of this? What is the big payoff for the telephone companies? They get paid a lot of money? No. They get paid nothing. What do they get for this? They get $40 billion worth of suits, grief, trashing, but they do it. But they don't have to do it, because they do have shareholders to respond to, to answer to. There is going to be a degrading of the nature of our intelligence in some very crucial areas if we follow the path that the minority leader is suggesting, because we will go right back to where we were last August, and that will be a further jolt to the telecommunications companies, because they will understand that you cannot count on the Congress, you cannot count on us to make policy which will give stability to their—not government agencies but to their corporations.

Fifteen days. We are off for a week, so maybe it has to be 25 days. I don't know. I don't care about that. We could have the same bill on this floor from the House. I am convinced of it. It is human nature. Give them a chance to have a grudge. I am going to meet with the chairman tomorrow. Let him rip into me for not giving the House an adequate chance for the second time to discuss this matter. But I am absolutely convinced that we could have that bill on the floor in this body and pass it and send it to the President. Why they don't want to do that, I do not know.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 4080 TO AMENDMENT NO. 4070

Mr. DEMINT. Mr. President, I call for the regular order with respect to amendment No. 4070, and I call up amendment No. 4080 as a second-degree amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 4080 to amendment No. 4070.

Mr. DEMINT. 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 rescind funds appropriated by the Consolidated Appropriations Act, 2008, for the City of Berkeley, California, and any entities located in such city, and to provide that such funds shall be transferred to the Operation and Maintenance, Marine Corps account of the Department of Defense for the purposes of recruiting)

At the appropriate place, add the following:

SEC. ___. RECISSION AND TRANSFER OF FUNDS.

(a) RECISSION OF CERTAIN EARMARKS.—All of the amounts appropriated by the Consolidated Appropriations Act, 2008 (Public Law 110–161) and the accompanying report for congressional directed spending items for the City of Berkeley, California, or entities located in such city are hereby rescinded.

(b) TRANSFER OF FUNDS TO OPERATION AND MAINTENANCE, MARINE CORPS.—The amounts rescinded under subsection (a) shall be transferred to the ''OPERATION AND MAINTENANCE, MARINE CORPS'' account of the Department of Defense for fiscal year 2008 to be used for recruiting purposes.

(c) CONGRESSIONAL DIRECTED SPENDING ITEM DEFINED.—In this section, the term ''congressional directed spending item'' has the meaning given such term in paragraph 5(a) of rule XLIV of the Standing Rules of the Senate.

Mr. DEMINT. Mr. President, I yield the floor.

Mr. DORGAN. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

AMENDMENT NO. 3893, AS MODIFIED

Mr. BROWNBACK. Mr. President, I ask for the regular order and call up my amendment No. 3893. I send a modification to the desk.

The PRESIDING OFFICER. The amendment is pending.

The amendment is so modified.

The amendment, as modified, is as follows:

At the end, add the following:

TITLE III—MISCELLANEOUS

SEC. 301. RESOLUTION OF APOLOGY TO NATIVE PEOPLES OF UNITED STATES.

(a) FINDINGS.—Congress finds that—

(1) the ancestors of today's Native Peoples inhabited the land of the present-day United States since time immemorial and for thousands of years before the arrival of people of European descent;

(2) for millennia, Native Peoples have honored, protected, and stewarded this land we cherish;

(3) Native Peoples are spiritual people with a deep and abiding belief in the Creator, and for millennia Native Peoples have maintained a powerful spiritual connection to this land, as evidenced by their customs and legends;

(4) the arrival of Europeans in North America opened a new chapter in the history of Native Peoples;

(5) while establishment of permanent European settlements in North America did stir conflict with nearby Indian tribes, peaceful and mutually beneficial interactions also took place;

(6) the foundational English settlements in Jamestown, Virginia, and Plymouth, Massachusetts, owed their survival in large measure to the compassion and aid of Native Peoples in the vicinities of the settlements;

(7) in the infancy of the United States, the founders of the Republic expressed their desire for a just relationship with the Indian tribes, as evidenced by the Northwest Ordinance enacted by Congress in 1787, which begins with the phrase, ''The utmost good faith shall always be observed toward the Indians'';

(8) Indian tribes provided great assistance to the fledgling Republic as it strengthened and grew, including invaluable help to Meriwether Lewis and William Clark on their epic journey from St. Louis, Missouri, to the Pacific Coast;

(9) Native Peoples and non-Native settlers engaged in numerous armed conflicts in which unfortunately, both took innocent lives, including those of women and children;

(10) the Federal Government violated many of the treaties ratified by Congress and other diplomatic agreements with Indian tribes;

(12) the United States forced Indian tribes and their citizens to move away from their traditional homelands and onto federally established and controlled reservations, in accordance with such Acts as the Act of May 28, 1830 (4 Stat. 411, chapter 148) (commonly known as the ''Indian Removal Act'');

(13) many Native Peoples suffered and perished—

(A) during the execution of the official Federal Government policy of forced removal, including the infamous Trail of Tears and Long Walk;

(B) during bloody armed confrontations and massacres, such as the Sand Creek Massacre in 1864 and the Wounded Knee Massacre in 1890; and

(C) on numerous Indian reservations;

(14) the Federal Government condemned the traditions, beliefs, and customs of Native Peoples and endeavored to assimilate them by such policies as the redistribution of land under the Act of February 8, 1887 (25 U.S.C. 331; 24 Stat. 388, chapter 119) (commonly known as the ''General Allotment Act''), and the forcible removal of Native children from their families to faraway boarding schools where their Native practices and languages were degraded and forbidden;

(15) officials of the Federal Government and private United States citizens harmed Native Peoples by the unlawful acquisition of recognized tribal land and the theft of tribal resources and assets from recognized tribal land;

(16) the policies of the Federal Government toward Indian tribes and the breaking of covenants with Indian tribes have contributed to the severe social ills and economic troubles in many Native communities today;

(17) despite the wrongs committed against Native Peoples by the United States, Native Peoples have remained committed to the protection of this great land, as evidenced by the fact that, on a per capita basis, more Native Peoples have served in the United States Armed Forces and placed themselves in harm's way in defense of the United States in every major military conflict than any other ethnic group;

(18) Indian tribes have actively influenced the public life of the United States by continued cooperation with Congress and the Department of the Interior, through the involvement of Native individuals in official Federal Government positions, and by leadership of their own sovereign Indian tribes;

(19) Indian tribes are resilient and determined to preserve, develop, and transmit to future generations their unique cultural identities;

(20) the National Museum of the American Indian was established within the Smithsonian Institution as a living memorial to Native Peoples and their traditions; and

(21) Native Peoples are endowed by their Creator with certain unalienable rights, and among those are life, liberty, and the pursuit of happiness.

(b) ACKNOWLEDGMENT AND APOLOGY.—The United States, acting through Congress—

(1) recognizes the special legal and political relationship Indian tribes have with the United States and the solemn covenant with the land we share;

(2) commends and honors Native Peoples for the thousands of years that they have stewarded and protected this land;

(3) recognizes that there have been years of official depredations, ill-conceived policies, and the breaking of covenants by the Federal Government regarding Indian tribes;

(4) apologizes on behalf of the people of the United States to all Native Peoples for the many instances of violence, maltreatment, and neglect inflicted on Native Peoples by citizens of the United States;

(5) expresses its regret for the ramifications of former wrongs and its commitment to build on the positive relationships of the past and present to move toward a brighter future where all the people of this land live reconciled as brothers and sisters, and harmoniously steward and protect this land together;

(6) urges the President to acknowledge the wrongs of the United States against Indian tribes in the history of the United States in order to bring healing to this land; and

(7) commends the State governments that have begun reconciliation efforts with recognized Indian tribes located in their boundaries and encourages all State governments similarly to work toward reconciling relationships with Indian tribes within their boundaries.

(c) DISCLAIMER.—Nothing in this section—

(1) authorizes or supports any claim against the United States; or

(2) serves as a settlement of any claim against the United States.

Mr. BROWNBACK. Mr. President, this is an amendment brought up at the very outset of this debate. I understand there has been an agreement that we can move forward with this amendment. So I have worked with the chairman of the committee and the ranking member, and the modifications have been made.

I ask for the yeas and nays on this amendment.

Mr. DORGAN. Mr. President, my understanding is that we were going to voice vote this amendment. Senator MIKULSKI is in the room, and she will want to call up her amendment No. 4023. My hope is that we could agree to these two amendments en bloc by voice vote.

Mr. BROWNBACK. We do not need a recorded vote. I will agree to a voice vote.

First, I ask unanimous consent to add Senator COBURN as a cosponsor of my amendment.

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

AMENDMENT NO. 4023

Ms. MIKULSKI. Mr. President, I ask unanimous consent that my amendment No. 4023 be considered en bloc with Senator BROWNBACK's amendment. I do not need a recorded vote. I am more than happy to accept a voice vote.

Mr. DORGAN. Mr. President, both amendments have been cleared. I ask for a favorable consideration of the two amendments.

The PRESIDING OFFICER. The question is on agreeing to the Brownback amendment No. 3893, as modified, and the Mikulski amendment No. 4023, en bloc.

The amendments (Nos. 3893, as modified, and 4023) were agreed to en bloc.

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

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DORGAN. 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. DORGAN. 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. DORGAN. Mr. President, I ask unanimous consent that the Senator from Hawaii, Mr. AKAKA, be recognized for 7 minutes as in morning business.

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

The Senator from Hawaii is recognized.

VETERANS BENEFITS ENHANCEMENT ACT

Mr. AKAKA. Mr. President, I come to the floor today to speak—again—about S. 1315, the Veterans Benefits Enhancement Act of 2007. This critical legislation would affect real change in the treatment of our Nation's veterans.

Provisions in S. 1315 would improve life insurance programs for disabled veterans, expand the traumatic injury protection program for active duty servicemembers, and provide individuals with severe burns specially adapted housing benefits. These provisions are vital to improve benefits and services for our veterans.

However, for many months now, S. 1315 has been blocked from debate by Republican Members opposed to a provision in the bill that would extend certain VA benefits to Filipino veterans, residing in the Philippines, who fought alongside U.S. troops during World War II. These veterans have been denied these benefits for over 50 years. I believe it is time to give these elderly veterans the benefits that they earned and so richly deserve.

In the 62 years since the end of the Second World War, Filipino veterans have worked tirelessly to secure the veterans status they were promised when they agreed to fight under U.S. command during World War II. They were considered U.S. veterans until that status was taken from them by an Act of Congress in 1946.

At the conclusion of my remarks, I will ask that a letter to Senator CRAIG from General Delfin Lorenzana, the head of the Office of Veterans' Affairs for the Embassy of the Philippines, be printed in the RECORD. This letter presents a historical overview of Filipino involvement during World War II and what has ensued since that time.

General Lorenzana notes that these veterans fought in a war between the United States and Japan, under the U.S. flag as part of the U.S. Army Forces in the Far East. He notes that out of the nearly half-a-million Filipino veterans who served, only 18,000 survive today. In another decade, only a few of them will remain.

I am happy to note that many Filipino veterans enjoy eligibility for benefits and health care services on the same basis as other U.S. veterans. However, there is still work to be done in order to extend these eligibilities to all of those who served with the United States military during World War II.

Last June the committee held a markup where the then ranking member, Senator CRAIG, offered an amendment to reduce the amount of pension that Filipino veterans residing in the Philippines would receive under S. 1315. I stress that the amendment was not to strip pension benefits from the bill entirely—merely to reduce the benefit in line with what Senator CRAIG viewed as appropriate. I disagreed with Senator CRAIG's assessment and his amendment was not adopted.

In the months that followed markup, consideration of S. 1315 was put off while Republican leadership on the committee suddenly changed hands.

In late fall, my efforts to seek a middle ground between the level of pension benefits in the bill as reported, and the level former Ranking Member CRAIG sought during markup, were rejected. When a counteroffer was finally made by the committee's new ranking member, Senator BURR, supported by Senator CRAIG, it proposed to entirely strip pension benefits from Filipino veterans residing in the Philippines from the bill. This is not acceptable to me. It is possible, however, that it might be acceptable to some in the Senate. That is why I continue to ask that we move forward with deliberation of this measure. Let us have a real debate on this bill, and then have an up-or-down vote.

I again ask that the Senate be allowed to debate this important measure. Our committee must be permitted to finish our work. America's veterans deserve no less.

Mr. President, I ask unanimous consent that the letter from General Lorenzana, which I mentioned earlier, be printed in the RECORD.

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

EMBASSY OF THE PHILIPPINES,
Washington, DC, February 6, 2008.

Hon. LARRY E. CRAIG,
Member, Senate Veterans' Affairs Committee, Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR CRAIG: In November and December last year, S1315, the Veterans Benefits Enhancement Act (which includes benefits for surviving Filipino World War II veterans) was brought to the Senate Floor for unanimous consent. On both occasions, you strongly objected to the passage of the Bill, specifically Title IV, the portion on Filipino WWII veterans, citing reasons such as: the Filipino veterans are not U.S. citizens; the proposed benefits are too generous; they would have undue advantage over U.S. veterans residing in the U.S.; we have treated them fairly by providing $620M in reconstruction after the war ($6.7B in today's dollars); we have a hospital in the Philippines; we are taking away money from our veterans to give to a foreign veteran—a Filipino (the Robin Hood in reverse effect).

It would be reasonable for such arguments to appeal to the American public, especially those who are uninformed of the complete facts of the issue. But in the interest of fairness, it is necessary to see the entire picture.

First of all, Filipinos who served under the U.S. Army pursuant to a military order by President Franklin D. Roosevelt on July 26, 1941 were in fact U.S. veterans by U.S. definition and the Rider to the Rescission Act of 1946 (PL 79–301) was, therefore, grossly discriminatory, unfair and unjust.

The Filipino WWII Veterans claim is based on the Philippines' status as a U.S. colony and a U.S. law, the Tydings-McDuffie Act of 1934, also known as the Philippine Independence Act. This law was passed by the U.S. Congress on March 24, 1934 to provide self-government to the Philippines leading to its eventual independence from America after a transition period of 10 years. This law mandates that all citizens of the Philippines shall owe allegiance to the United States. Under this law, the United States of America retains control and supervision of national defense and foreign affairs. The President of the United States of America was likewise granted power to call into service all military forces located within the Philippine Commonwealth Government. This power was invoked and exercised by President Franklin D. Roosevelt on July 26, 1941 when war with Japan became imminent.

Some have argued that the responsibility for taking care of Filipino veterans rests upon the Philippine Government because they fought for their country. Our Government has been doing this within its resources for more than 60 years. In fact the Philippine Congress is passing a law that would allow these veterans to continue receiving their old-age pensions even after the U.S. has passed a law that would give them veterans benefits.

That they fought for their country's liberation cannot be denied. But primarily, these veterans fought in a war between U.S. and Japan, under the U.S. flag as part of the United States Army Forces in the Far East (USAFFE). Japan invaded the Philippines to defeat the American forces stationed thereat which it considered an obstacle in its drive to the resource-rich Dutch East Indies. Some historians have argued that if the Philippines then had not been a colony of the U.S., it could have been easily bypassed by Japan in its southward drive. Because of the vagaries of history we will never know this for sure, but the fact is, Thailand, a country not under a colonial rule, was not invaded.

You claimed that the pension benefit is too generous ($375 for veterans with dependents, $300 for single veterans, and $200 for widows of veterans). What is the price of the services and sacrifices so generously given to America by these veterans and the entire Filipino nation during that Great War, Senator Craig? They were prepared to offer the ultimate sacrifice for America. Their homeland was made a battlefield in a war between Japan and the United States. An estimated one million Filipinos, combatants and noncombatants, died in that war. If at all, for so many of these veterans, these benefits may be too little, too late.

And yet after the war, these veterans were denied their benefits under U.S. laws by an Act of Congress (PL 79–301). It was a discriminatory, unfair and unjust law because while it barred these veterans from getting benefits it also provided for widows and orphans of those who died in line of duty and to those who had service-connected disabilities even if only at 50 cents to the dollar. But were the services of the survivors less important than those who were killed at the onset of the war and later or those who were imprisoned, wounded and incapacitated?

In reality, they were an indispensable part of the underground Army that tied up large number of Japanese forces otherwise deployed elsewhere. They aided and protected American officers and soldiers who escaped capture. They served in the underground units led by USAFFE officers. They provided vital intelligence and forces-in-place that facilitated the counter-invasion of the allied forces that minimized allied casualties. They provided invaluable intelligence and combat support in the rescue of 513 American POWs in Cabanatuan in Central Luzon on January 28, 1945—considered as the most successful rescue in the annals of the U.S. Army. This rescue operation was later made into the acclaimed book ''The Ghost Soldiers'' and eventually into a movie ''The Great Raid''.

U.S. role in the Philippine postwar reconstruction and rehabilitation was to be expected. The war, after all, was on account of the United States. But these postwar reconstruction and aid came at a great cost to the fledgling Philippine Republic as this excerpt from a history book states: ''The Philippines had gained independence in the 'ashes of victory'. Intense fighting, especially around Manila in the last days of the Japanese retreat (February–March 1945), had nearly destroyed the capital. The economy generally was in disarray. Rehabilitation aid was obviously needed, and President Roxas was willing to accept some onerous conditions placed implicitly and explicitly by the U.S. Congress. The Bell Act in the United States extended free trade with the Philippines for 8 years, to be followed by 20 years of gradually increasing tariffs. The United States demanded and received a 99-year lease on a number of Philippine military and naval bases in which U.S. authorities had virtual territorial rights. And finally, as a specific requirement for release of U.S. war-damage payments, the Philippines had to amend its constitution to give U.S. citizens equal rights with Filipinos in the exploitation of its natural resources—the so-called Parity Amendment.'' The aggressor nations were actually treated better.

Your statement that granting these benefits to the Filipino veterans is stealing money from U.S. veterans and giving it to a foreign veteran—a Filipino (the Reverse Robin Hood effect), is most unfair to all these veterans, Filipinos and Americans. They served the United States faithfully and selflessly and it is uncharacteristic that they should be pitted against each other over benefits. These Filipinos are U.S. veterans at the end of WWII as pointed out earlier. Our research into U.S. Congressional records of early 1946 indicates that, in fact, it was the Filipino veterans who were stripped of their rightful benefits under U.S. laws by an act of Congress. During the deliberation of the Rescission Act of 1946, the Head of the Veterans Administration testified that the Filipino soldiers who served under the U.S. Army during World War II pursuant to the military order' of President Franklin Roosevelt satisfy the statutory definition of a U.S. veteran and that it would cost the U.S. $3.2B to pay them on equal terms as their U.S. counterpart. Subsequently, the Rider to P.L. 79–301 was inserted to become Sec. 107, Title 38 of the U.S. Code which S1315 aims to amend. How much is $3.2B in today's dollars, Senator Craig? Furthermore, the Rider to P.L. 79–301 provided an appropriation of $200M to the Philippine Army to compensate Filipino veterans. Immediately upon enactment of P.L. 79–301, the Philippine Resident Commissioner to the U.S., the Honorable Carlos P. Romulo, protested the Rider and rejected the $200M appropriation to the Philippine Army. Our research yields no record of the amount going into the Philippine Army budget in the years 1946–48. Again, how much is this in today's dollars? By all accounts, this measure has saved the U.S. billions of dollars at the expense of the Filipino veterans.

Mr. Senator, these Filipino WWII veterans were no different from the more than 15 million American men and women who were discharged from the military service at the end of WWII. They came from all walks of life and cross-section of the country the same as their U.S. counterparts: from cities, small towns, farms and villages. But the similarity ends there. After the war the U.S. veterans could go to school under the GI Bill of Rights. They were eligible to generous housing loans, medical and other benefits. Educated and trained, they became a vital cog of postwar America that propelled this great nation to its preeminent place in the world today. Two of your esteemed Senate colleagues, Senators John Warner and Frank Lautenberg, both WWII veterans, jumpstarted their careers through the GI Bill. No such luck came for the Filipino veterans.

Senator Craig, the 110th Congress is in a position to redress a 62-year old injustice done to Filipino veterans by the same institution that you now serve, by passing S1315. Out of the original 470,000 listed after the war which the U.S. Army trimmed down to 260,143 in 1948, barely 18,000 survive today. They are in their mid-80s and in about a decade only a few of them would be left. They are not seeking equal benefits as their American counterparts. The Veterans Federation of the Philippines welcomes and fully supports the Senate Veterans Affairs' Committee markup. Your statement that it would give them undue advantage over U.S. veterans residing in the U.S. vis-à-vis the difference in the cost of living in both countries is not the case on closer scrutiny. Whilst the U.S. veterans have access to VA medical facilities & medicines, loan guarantees, low insurance premiums and food stamps the Filipino veterans do not. Only those in Luzon have easy access to the Veterans Memorial Medical Center in Manila (a hospital built by the U.S. in 1950 and conveyed to the Philippine Government in 1953) but they usually pay for their own medicines. Whatever meager income they have is augmented by a 5,000 pesos old-age pension from the Philippine Government. Furthermore, the appreciation of the Peso against the Dollar which was 55:1 a year ago is now 40: 1, thus greatly diminishing the real value of the proposed pension benefits.

We hope that the debate on the Filipino WWII veterans issue would focus more on the merits of their claims and not their being non-U.S. citizens. After all, this was not an issue in 1941 when the U.S. President ordered

them into the service of the U.S. Army to fight under the U.S. flag. They were U.S. veterans under U.S. law after the war and entitled to VA benefits until PL 79–301 was passed.

As we commemorate the Anniversary of the Rescission Act of 1946 on February 18, we pray that this 62-year old claim for recognition and benefits of these remaining gallant men and women who served America with utmost loyalty and devotion during WWII be finally granted.

Lastly, the Philippines is one of the leading allies of the U.S. in today's war against terror. In the same way that the Filipino soldiers in WWII shed their blood with U.S. soldiers in defense of freedom and democracy, today's Filipino soldiers help make the world a safer and more secure place to live. Would it be too much to ask, therefore, that if only in tribute to their long lasting partnership, that a great injustice be formally corrected and our WWII veterans given the recognition and benefits they so richly deserve. That's all that we ask.

With my best wishes for your continued success, I remain

Sincerely yours,

DELFIN N. LORENZANA,
Special Presidential Representative/ Head, Office of Veterans' Affairs.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 4078, AS MODIFIED; TO AMENDMENT NO. 3899, AND 4083

Mr. DORGAN. Mr. President, I have a unanimous consent request that has been cleared on both sides, to clear some amendments that are agreed to.

I ask unanimous consent that the pending amendment be set aside so that I may call up the following amendments en bloc: Coburn, No. 4078, as modified; Vitter, No. 4038; Bingaman, No. 4083.

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

The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for Mr. COBURN and Mr. BINGAMAN, proposes amendments numbered 4078, as modified, and 4083, en bloc.

The amendments are as follows:

AMENDMENT NO. 4078, AS MODIFIED

At the appropriate place in title VIII of the Indian Health Care Improvement Act (as amended by section 101), insert the following:

"SEC. 8___. STUDY ON TOBACCO-RELATED DISEASE AND DISPROPORTIONATE HEALTH EFFECTS ON TRIBAL POPULATIONS.

''Not later than 180 days after the date of enactment of the Indian Health Care Improvement Act Amendments of 2008, the Secretary, in consultation with appropriate Federal departments and agencies and acting through the epidemiology centers established under section 209, shall solicit from independent organizations bids to conduct, and shall submit to Congress, no later than 5 years after enactment, a report describing the results of, a study to determine possible causes for the high prevalence of tobacco use among Indians.

AMENDMENT NO. 4083

(Purpose: To require the Comptroller General of the United States to conduct a study on payments for contract health services)

At the end of title I, add the following:

SEC. _____. GAO STUDY AND REPORT ON PAYMENTS FOR CONTRACT HEALTH SERVICES.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States (in this section referred to as the ''Comptroller General'') shall conduct a study on the utilization of health care furnished by health care providers under the contract health services program funded by the Indian Health Service and operated by the Indian Health Service, an Indian Tribe, or a Tribal Organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act).

(2) ANALYSIS.—The study conducted under paragraph (1) shall include an analysis of—

(A) the amounts reimbursed under the contract health services program described in paragraph (1) for health care furnished by entities, individual providers, and suppliers, including a comparison of reimbursement for such health care through other public programs and in the private sector;

(B) barriers to accessing care under such contract health services program, including, but not limited to, barriers relating to travel distances, cultural differences, and public and private sector reluctance to furnish care to patients under such program;

(C) the adequacy of existing Federal funding for health care under such contract health services program; and

(D) any other items determined appropriate by the Comptroller General.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a), together with recommendations regarding—

(1) the appropriate level of Federal funding that should be established for health care under the contract health services program described in subsection (a)(1); and

(2) how to most efficiently utilize such funding.

(c) CONSULTATION.—In conducting the study under subsection (a) and preparing the report under subsection (b), the Comptroller General shall consult with the Indian Health Service, Indian Tribes, and Tribal Organizations.

Mr. DORGAN. Mr. President, I ask unanimous consent that the following amendments be agreed to en bloc: Martinez, No. 3906, as modified; Bingaman, No. 4083; Barrasso, No. 3898; Coburn, No. 4078, as modified; Coburn, No. 4029; and Vitter, No. 4038.

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

The amendments (Nos. 3906, as modified; 4083; 3898; 4078, as modified; 4029; and 4038) were agreed to en bloc.

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

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

AMENDMENT NOS. 4024, 4025, 4026, 4027, 4028, 4030, 4031, 4033, 4035, AND 4037 WITHDRAWN

Mr. DORGAN. Mr. President, Senator COBURN has indicated to me that the pending Coburn amendments will not be dealt with further. Therefore, on his behalf, I ask that the Coburn amendments be withdrawn. I believe Senator MURKOWSKI is with the same understanding. He came to both of us. He offered some of his amendments. He got us to accept other amendments without a vote. We appreciate very much his cooperation. But the other pending amendments that were accepted originally to be en bloc, we ask they be withdrawn.

Ms. MURKOWSKI. Mr. President, we have no objection on this side to withdrawing the pending Coburn amendments.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments are withdrawn.

The Senator from North Carolina.

Mr. BURR. Mr. President, I ask unanimous consent to address the Senate for 10 minutes as in morning business.

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

SECTION 303

Mr. KENNEDY. Mr. President, I would like to thank the senior Senator from North Dakota for his leadership on the issue of Indian health care. As he and the Senator from Alaska have emphasized during the debate in recent days, our Government must ensure that Native Americans have access to quality health care throughout our country.

Mr. DORGAN. I thank the Senator from Massachusetts for his support.

Mr. KENNEDY. I understand that in the managers' amendment, section 303(b) of the bill has been modified so that the language is now identical to current law; is that correct?

Mr. DORGAN. Yes. The intent of the provision in the managers' amendment to the bill is to maintain current law. Generally, when Indian health facilities are constructed or renovated, Davis-Bacon prevailing wage rates apply. However, pursuant to current Federal law and longstanding policy of the Department of Labor, Indian Health Service, and Bureau of Indian Affairs, when Indian tribes and tribal organizations construct or renovate federally funded Indian health facilities using their own employees, Davis-Bacon prevailing wage rates do not apply. Our intention in the managers' amendment is to maintain the status quo of current law and policy in these regards.

Mr. KENNEDY. So this language does not change the construction or application of existing statutes?

Mr. DORGAN. Correct, it does not change current law. It is our intent that the prevailing wage provisions in both the Indian Health Care Improvement Act and the Indian Self-Determination and Education Assistance Act will continue to apply when Federal funds are used for the construction

and renovation of Indian health facilities, except where such work is carried out by tribal or tribal organization employees.

Ms. MURKOWSKI. That is my understanding as well. The only reason that the managers' amendment restates section 303, as opposed to simply leaving section 303 in current law untouched, is a purely technical matter arising from the difficulty, or awkwardness, of leaving only one provision of the Indian Health Care Improvement Act in place while restating or amending the rest of that act.

Mr. DORGAN. That is correct, that is why the managers' amendment restates current section 303 verbatim.

Ms. MURKOWSKI. More specifically, it is my understanding that by simply restating section 303 verbatim in this bill, Congress is not superseding or altering the effect of the prevailing wage provisions of the Indian Self-Determination and Education Assistance Act—including the exception referred to by the Senator from North Dakota applicable when construction or renovation work is carried out by employees of an Indian tribe or tribal organization—the regulations promulgated under that act.

Mr. KENNEDY. That is correct.

Mr. DORGAN. Yes, that is correct.

Mr. BROWN. Mr. President, I rise today in support of amendment No. 4023, which would halt draconian new rules that would hamstring cost-effective case management services under the Medicaid Program.

In March of this year, the Centers for Medicare and Medicaid Services plans to implement a regulation designed to limit case management services: For children in foster care; for the elderly, who, if not for case management, would be in nursing homes; for Americans with disabilities; and or individuals with severe mental illness.

These are Americans who not only live with severe health or mental disabilities, they live in poverty.

This administration is nothing if not consistent.

This administration consistently woos those with wealth and neglects those in need.

Ohio has worked over the past 24 years to develop and fine tune an effective system for providing case management to Medicaid beneficiaries who meet a nursing home level of care but want to remain in their homes.

Enabling these Ohioans, most of whom are elderly, to live independently is not only right, it is smart.

Per capita nursing home care is more expensive than per capita home health care.

And home and community-based care fosters independence, self-determination, and rehabilitation.

Case managers are the foundation of this system of care. It cannot work without them.

But case managers cannot do their jobs if they are hung up by rules that just do not make sense.

CMS is attempting to chop the case management system into pieces, wrap it in red tape, and sit back as it withers on the vine.

They are limiting case management, as if the lack of it is in some way a reasonable solution to rising health care costs. Nothing could be further from the truth.

At a time when our health care system is overburdened and our economy is in a slump, why would we introduce chaos into cost-effective, coordinated care?

If the administration hamstrings effective case management, Medicaid costs will not drop, they will likely balloon. Without solid case management grounded in seamless administration and service delivery, state Medicaid Programs will lose ground.

They will forsake precious progress they have made toward eliminating duplicative or unnecessary care, reducing hospitalizations, and improving outcomes.

This rule is bad for Ohio and bad for the nation.

It is misguided, and frankly, it is cruel.

Whether your vote arises from compassion or common sense, I urge every Member to support this amendment.

Ms. CANTWELL. Mr. President, I rise in strong support of the Indian Health Care Improvement Act and the reauthorization we are considering today.

Passage of this bill in the Senate is long overdue. We haven't passed an update to the Indian Health Care Improvement Act since 1992, and the law has now been expired for 8 years.

Since this time, we have seen the continuation of unacceptable trends in the health of American Indians and Alaskan Natives. American Indians and Alaskan Natives across the country are 400 percent more likely to die from tuberculosis, 291 percent more likely to die from diabetes complications, and 67 percent more likely to die from influenza and pneumonia than other groups.

In my State of Washington, the average life expectancy of an American Indian is estimated to be 4 years below that of the general population, as reported by the Indian Health Service for the years 2000 through 2002. This is a troubling increase from the gap of 2.8 years reported by the Indian Health Service for 1994.

These disparities must not continue. We owe it to Indian Country to make good on our promise—a promise embedded in long-standing trust agreements—to ensure that the health needs of American Indians and Alaskan Natives are taken care of.

Enactment of this bill, of which I am a proud cosponsor, is a necessary step that will help us fully realize our obligations. The Indian Health Care Improvement Act must be reauthorized, and most importantly, modernized to ensure that the services delivered under the Indian Health Service reflect the advances made in health care delivery.

This reauthorization makes much needed improvements to the way health care is administered to American Indians. It makes new authorizations for home and community based care, a cost-effective and much desired alternative to traditional long-term care facilities. It expands behavioral health services to address disorders beyond the traditional focus on alcohol and substance abuse. And it requires that individuals in need of mental help get access to a continuum of care such as hospitalization and detoxification services.

Importantly, this bill includes long-term reauthorization of health services for urban Indians. As my colleagues know, urban Indians account for a vast majority of the American Indian population, with nearly 7 out of 10 American Indians and Alaskan Natives living in or near an urban area.

Such a large population cannot be left behind in this reauthorization. Urban Indians face similar health disparities as their counterparts who live on reservations, and they are not removed from our Nation's trust obligation because of where they live.

Washington State is grateful for the efforts of two urban Indian organizations working to provide critically needed health care to this underserved population. The Seattle Indian Health Board and the N.A.T.I.V.E. Project of Spokane have remained strong components of our State's health and social safety net, providing over 15,000 unique patients with comprehensive primary care, mental health, and social services.

The Seattle Indian Health Board also serves as a vital health research and surveillance center for the country under its Urban Indian Health Institute program. There is much to be learned about the issues and barriers facing urban Indians, making the comprehensive collection and analysis of information from this program indispensible to our work to improve the health of our communities.

Continuing Federal support for these and the other 32 entities currently receiving Federal resources for urban Indian health care must remain a top priority under this Government's strategy to address the disparities facing all American Indians.

I am excited that we have come so close to passing this reauthorization. I hope to work with Chairman DORGAN, Vice Chairman MURKOWSKI, and my colleagues on the Indian Affairs and Finance Committees to seeing this through and getting a bill signed into law.

However, I want to also urge my colleagues to remember that our trust responsibility does not end with reauthorization of the Indian Health Care Improvement Act. It continues as we craft a budget for the coming fiscal year and make the appropriations for the Indian Health Service. The programs we are about to reauthorize are useless if we don't make gains in the

paltry amount of funds for health services, urban Indian health, and facilities construction. As my colleagues know, the Indian Health Service is only funded at 60 percent of estimated need.

Today's actions should be the beginning of a renewed commitment to our first Americans. I look forward to starting a new chapter in our relationship with Indian Country.

Mr. WYDEN. Mr. President, today the Senate is considering the Indian Health Care Improvement Act Amendments. American Indians and Alaska Natives—along with all other Americans—should receive modern, efficient, and quality health care. Unfortunately, too many of those in the Indian health system do not receive that care today. This important legislation will change that.

Reforming our Nation's broken health care system is one of my highest priorities and I strongly support efforts to shore up Indian health care services, such as those proposed in this important legislation. Like all Americans, American Indians and Alaska Natives cannot prosper without access to modern, efficient, and quality health care.

The most recent census information available indicates there are 2.3 million American Indian and Alaska Native people in the United States. In my State of Oregon alone there are nine federally recognized tribes, and a large urban Indian population. Less than 40 percent of their people reside on reservations. It is a continuing failure of this Nation that American Indian and Alaska Native people rank at or near the bottom of so many social and economic indicators.

Most striking of these indicators are the health statistics involving American Indian and Alaska Natives. Diabetes, tuberculosis, alcoholism, fetal alcohol syndrome, and increasingly, AIDS, plague America's Native communities at rates far and above those of other Americans. As of 2007, there is a $1 billion backlog in unmet needs for health facilities, contributing to the degenerating health of Native communities.

The plight of Native American health care in this country is the result of one simple and tragic fact: The Federal Government has failed to meet its promise to Native Americans.

Through treaties and statutes, the Federal Government has promised to provide health care to American Indians and Alaska Natives. A critical aspect of this promise is sufficient funding for the Indian Health Service, IHS, part of the Department of Health and Human Services. IHS arranges health care services for Native Americans and provides some services through direct care at hospitals, health centers, and health stations, which may be federally or tribally operated. When services are not offered or accessible onsite, IHS offers them, as funds permit, through contract care furnished by outside providers.

In addition, in the Indian Health Amendments of 1992, Congress specifically pledged to ''assure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy.'' These combined commitments are absolutely essential to help the Federal Government meet its legal and moral responsibilities to Native Americans.

Sadly, we haven't even come close to honoring these commitments. Sufficient funding has not been provided. IHS is so underfunded and understaffed that patients routinely are being denied care that most of us would take for granted and, in many cases, would consider essential. The resulting rationing of care means that all too often Indians are forced to wait until their medical conditions become more serious—and more difficult to treat—before they can even access necessary health care. The chronic underfunding has only grown worse in recent years, as Federal appropriations failed to keep up with the steep rise in public and private health care costs and expenditures.

The results are startling and disturbing. While per capita health care spending for the general U.S. population is about $7,000, the Indian Health Service spends only about $2,100 per person on individual health care services. The Government also spends considerably less on health care for Indians than it spends for Medicare beneficiaries, Medicaid recipients, and veterans.

It is appalling that we can live in one of the most prosperous nations on Earth, where most—but by far not all—Americans have access to health care services, yet we provide woefully inadequate health care for our Native American population.

These resource shortcomings underscore the need to make the Indian Health Service a priority in the Federal budget. It is also why I am supporting an amendment offered by my colleague from the State of Oregon, Senator GORDON SMITH, along with my colleague from Washington State, Senator MARIA CANTWELL. It would provide for innovative approaches in funding health care facilities by providing a way to distribute funds more equally with the establishment of an area distribution fund.

Each year, I travel to every county in Oregon to learn firsthand the challenges confronting my constituents. I often find that my most enlightening visits occur when I travel to Indian Country, especially when I hear or read compelling stories about Indian health care afforded to my tribal constituents. But I am also pleased that the northwest region has its share of success stories and examples of medical care for Native Americans that have worked.

With the support of the Native American Rehabilitation Association's Diabetes Prevention Program, made possible by the IHS Special Diabetes Program for Indians, diabetes patients are losing weight and improving their lifestyle. I am also pleased to note that the One Sky Center, a National Native Resource Center for Substance Abuse and Mental Health Services located at Oregon Health and Science University in Portland, is the only National Resource Center of its kind in Indian Country. Indian Country is in a crisis in combating alcohol, substance abuse, and methamphetamine. There is a real need for such a center for not only tribal people, but also for those who work and interface with Indian Country to try to find solutions, leverage programs, and build partnerships to address these key health issues.

In addition, on the national level, the recently reauthorized Special Diabetes Program for Indians, SDPI, has had significant success and is viewed as a model for improving preventive care and disease management for this significant chronic illness. Tragically, Native Americans are 2.6 times more likely to be diagnosed with diabetes than the general U.S. population and diabetes mortality is believed to be 4.3 times higher in the Native American population than in the general U.S. population. The combination of this special program and the legislation before us today could help make significant strides against this ongoing public health threat that disproportionately hits Native Americans. Importantly, the SDPI has given Indian health programs and tribal communities invaluable resources and tools to help prevent and treat diabetes. And it has had real medically measurable results. In just 10 years, the mean blood sugar level has decreased by 13 percent. Scientific research demonstrates that such a decrease results in a 40-percent decrease in diabetes-related complications, such as blindness and amputations. Furthermore, on the prevention front, it has also increased school-based prevention programs for children, such as increased physical activity programs, better school lunches, and removal of junk food-filled vending machines, and diabetes awareness education. There are also more community-based wellness centers offering exercise and nutrition programs for individuals at risk for diabetes.

Yet, this program has been funded apart from the traditional sources of funding for Indian health care, the IHS. It is imperative that Congress pass the Indian Healthcare Improvement Act Amendments so that our country can begin to fill the many gaps in Indian health care and have more success stories like the ones I just described.

I want to just take a few moments to reiterate how important it is for all Americans that the Federal Government move to reform our nation's health care system. It is very clear, in my view, that our Nation faces a health care crisis. In fact, I think when we get on the floor debating any health program, the Senate will see and the

country will see that this debate illustrates how broken our health care system is.

Native Americans are not the only Americans who believed they would have health care when they would need it, only to find that faced with a serious or life-threatening illness the care or coverage available doesn't match their need. Despite paying more per person for health care services than any nation on Earth, so many go without care or coverage. For some Americans, this happens when they have lost a job, and hence the coverage that went with it, or they had minimal insurance that doesn't come close to providing them the financial security needed to cover the costs of the health care services they need. For 47 million Americans, often through no fault of their own and despite having tried to be able to afford or purchase health coverage, they find themselves with no health coverage at all. These fellow citizens are at the mercy of hospital emergency rooms should health care tragedy strike them or their families. Plus, in an unconscionably large number of cases, they are unable to pay for needed care without risking personal bankruptcy, if at all.

Many people agree with the need for change, but have a healthy skepticism about whether real, meaningful structural reform is possible in our lifetimes. I understand these doubts, and I do not underestimate the challenge. Yet, I do believe we have the possibility of a real ideological truce now in health care. More and more Senators of both political parties have come to understand that to fix health care we must cover everybody. If we don't cover everybody, people who are uninsured shift their bills to those who have insurance. So colleagues on my side of the aisle who made the point about getting everybody coverage, in my view, have been correct, and clearly the country and citizens of all political persuasions have come around to that point of view.

There is also strong support for something the Republicans feel strongly about, and that is not having the government run everything in health care. There can be a role for a healthy private sector in universal health care, one where there is a fairer and more efficient market. And there ought to be more choices; in fact, there can be an abundance of choices in a system like Members of Congress enjoy today.

I am very pleased that I could join with Senator BENNETT of Utah, a member of the Republican leadership, in offering a bill based on just those principles. It is S. 334, the Healthy Americans Act, and it is the first bipartisan universal coverage bill in more than 13 years. The last bipartisan, universal coverage health bill was offered by the late Senator Chafee more than 13 years ago. Now we do have the opportunity for the Senate to come together on a bipartisan basis and deal with the premier challenge at home, and that is fixing American health care.

My fellow Senators, it is my hope that we pass the Indian Healthcare Improvement Act Amendments as soon as possible and live up to our legal and moral obligations to provide health care services to our Native American population. I have been proud to join efforts to increase funding for the Indian Health Service, and I will continue to fight for more IHS funding because it benefits all people, Native and non-Native people, in tribal and surrounding communities. I am pleased to support these needed improvements and funding, which will move forward the cause of improved Indian health care.

LIFE INSURANCE BENEFITS FOR DISABLED VETERANS

Mr. BURR. Mr. President, a few minutes ago the chairman of the Veterans' Affairs Committee came to the floor and talked about the history of a bill, S. 1315, the spirited debate we had in committee and the continued negotiations that have gone on since that markup. I am here to announce that today I introduced an alternative bill to S. 1315. I know I am joined by millions in America who also salute our Nation's veterans. These brave men and women and their families have sacrificed so much to defend our country and to protect our freedoms.

As the ranking Member of the Senate Committee on Veterans' Affairs, I take very seriously my responsibilities to ensure that our veterans are getting the respect and benefits they deserve.

This appreciation is the very reason why I wish to talk about the substitute to S. 1315. My bill is a commonsense alternative to an omnibus veterans bill that was reported out of the Senate Committee on Veterans' Affairs last June contained over 35 provisions compiled from other bills.

Unlike in past Congresses, S. 1315 does not enjoy the kind of customary bipartisan support that such omnibus bills have received in the past. Why is this? In addition to all the good things it would do for the veterans, this bill also is a vehicle for a provision that would take money away from helping veterans of the war on terror and instead send the money overseas. I am talking about a provision that would establish a flat rate special pension for World War II Filipino veterans who did not suffer any wartime injuries, generally are not U.S. citizens, and who do not even live in the United States. In a few minutes, I will talk more about the Filipino provision benefits and why it is wrong and the wrong priority at the wrong time.

First, I wish to share some good provisions of S. 1315 which I have included in the alternative omnibus bill I have introduced today.

S. 1315 has some very important provisions to help our men and women who have fought in the war on terror and should be passed as soon as possible by this body.

It provides retroactive payments—between $25,000 and $100,000—to all disabled veterans who sustained severe injuries since the war on terror began. Currently, severely injured veterans can only receive this retroactive payment if they sustained their injuries in Iraq or Afghanistan. But if they were injured on the way to or returning from a combat zone, they are not eligible. This provision would correct that mistake.

It also increases the amount of insurance coverage available to severely disabled veterans under the Veterans' Mortgage Life Insurance Program.

Additionally, it provides adapted housing and auto grants to veterans with severe burn injuries who require modifications to their homes or their vehicles. And it provides severely injured service men and women with housing grant assistance who temporarily live with family members while still on Active Duty. My bill would keep these provisions and other good provisions from S. 1315.

So what would my bill do that differs from S. 1315?

First, it would eliminate the provision that creates a special pension for non-U.S. citizens, Filipino veterans who live in the Philippines and do not have wartime injuries. This would free up over $220 million to spend on benefits for veterans of Operation Enduring Freedom and Operation Iraqi Freedom.

It is important to note it would still provide over $100 million to grant full equity to Filipino veterans living in the United States and full disability compensation for those living abroad who have service-related injuries.

Also, my bill would create savings by changing how S. 1315 would fund State approving agencies, the entities that accredit schools and training programs for VA education benefits. My bill would begin to transition these entities from entitlement funding to discretionary appropriations. Subjecting these agencies to the annual appropriations process would help make sure veterans are being well served by any funds spent on this bureaucratic function.

My bill then takes these savings, the savings we have gained from eliminating this pension fund for non-U.S. citizens and Filipinos not injured in the conflict and it would provide funding to increase the specially adapted housing grants for severely disabled veterans from $50,000 to $55,000 and for less severely disabled veterans from $10,000 to $11,000. It would then annually adjust the amount of these grants for inflation.

My bill would also increase the auto grant assistance for traumatically injured veterans from $11,000 to $16,000, and then also index that grant for inflation.

This benefit provides mobility and freedom to people such as SGT Eric Edmundson—whom my colleague from North Carolina talks about frequently—a young veteran from my State of North Carolina who lost the use of his legs after being injured during combat. As a result, Eric now uses

a motorized wheelchair. The expense to get a van that is wheelchair accessible is enormous. This provision makes it financially possible for others, such as Eric, to afford what most of us take for granted: mobility.

My bill would also provide annual increases in the funeral assistance and plot assistance benefits to families of deceased veterans to keep up with inflation.

It would increase ''kickers'' for members of the Guard and Reserve from $350 to $425 per month, providing extra monthly education benefits that may be paid to members with certain critical skills.

It also allows Guard and Reserve personnel activated for a cumulative 2 years after the war on terror began to receive maximum education benefits. The current requirement is either 3 cumulative years or 2 continuous years of service. This change will make it easier for our men and women who have gone on multiple deployments, including many of the Guard and Reserve from my home State of North Carolina, to earn the highest level of education benefits.

With these changes to S. 1315, we have a well-balanced package of benefit enhancements for our Nation's veterans which could garner the support of the entire Senate.

Unfortunately, the same cannot be said about S. 1315 in its current form. The problem with S. 1315 is the provision that creates a special pension for World War II Filipino veterans. This is both wrong and it is costly. It is wrong because it takes money from American veterans and sends it to the Philippines to create a special pension for noncitizen, nonresident Filipino veterans with no service-connected disabilities.

Allow me to explain this provision in S. 1315 and what it would actually do.

It proposes to send $328 million over 10 years in benefits for Filipino veterans. Although I am supportive of the increased benefits for Filipino veterans residing in the United States and even increasing benefits for Filipinos with service-connected injuries residing elsewhere, I cannot support sending $221 million to the Philippines to create a special pension for noninjured Filipino veterans.

To some, this may sound like a nice thing to do, and I fully respect their desire to recognize the valued service made by Filipino veterans in defense of the Philippine islands. But I point out that our Government has already done a great deal to provide for Filipinos who fought in World War II.

For instance, after the war, the United States gave $620 million to the Philippines for repair of public property and war damage claims; provided partial-dollar VA disability compensation to Filipinos with service-related disabilities, and provided benefits to the survivors of Filipinos injured in the war.

The United States also provided $22.5 million for the construction and equipping of a hospital in the Philippines for the care of Filipino veterans and later donated that hospital to the Philippine Government. On top of that, the United States continues to provide annual grants to support the operation of that hospital in the Philippines.

For those Filipinos legally residing in the United States, the benefits are even more robust. They are eligible for full-dollar disability compensation, for cash burial benefits, access to our VA health delivery clinics and medical centers, and burial in our national cemeteries.

With these initiatives and others, our Government has taken a significant step to recognize the service of Filipino veterans. More importantly, the money that S. 1315 would send overseas to create a new special pension for Filipinos is money that is needed in the United States to support our men and women who have served our country, especially in Iraq and Afghanistan. Simply put, with our Nation now at war, this Filipino pension provision is the wrong priority at the wrong time.

Since the committee's markup, we have tried to refocus this bill and the priorities that so many of our colleagues share, such as enhancing benefits for men and women fighting in the war on terror. Because those efforts have not worked, I introduced today an alternative omnibus bill to 1315. I kept most of the provisions found in 1315 because it is generally a good bill. It would provide enhancements to a wide range of benefits for our Nation's veterans.

In short, my bill serves as a fair and just compromise. It improves benefits for Filipinos, but it also places the appropriate priority on our returning OIF and OEF veterans. I believe it is a reasonable alternative to S. 1315, and I believe it is one we can all embrace and pass quickly. I ask my colleagues for their support.

I am ready to debate the contents of this bill against S. 1315. I am sure, if the leadership sees fit, they will set the structure up to do that. But it is important that every Member of the Senate and every American understand we have done a tremendous job of supporting people who have fought with us in battle, and the Filipinos are no different. The reality is, at this time, we should focus on the needs of those who are U.S. citizens, the needs of those who were injured in battle, but not to create a special pension fund for individuals who had an affiliation, and I might say that exceeds the annual income of most Filipino residents.

I urge my colleagues to learn about this issue and to get ready to engage in debate.

I yield the floor, Mr. President, and 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.

HONORING OUR ARMED FORCES

SERGEANT EDWARD O. PHILPOT

Mr. MCCONNELL. Mr. President, I rise to speak on behalf of a fallen soldier. On October 23, 2007, SGT Edward O. Philpot of Manchester, KY, was on patrol with U.S. soldiers and members of the Afghan National Army in Kandahar, Afghanistan, conducting tactical convoy operations in hostile territory. Sergeant Philpot was killed in a tragic humvee rollover accident. He was 38 years old.

Sergeant Philpot handled a number of jobs in his unit, from gunner to driver to humvee commander. He was proud to wear the uniform and proud to serve his country.

''Ed had found his calling with the military,'' says Renee Crockett, his sister. ''He loved being a soldier and felt he was finally doing exactly what he was supposed to do.''

For his bravery in uniform, Sergeant Philpot received numerous medals and awards, including the Bronze Star Medal.

Military service ran in Ed's family, as his Uncle Willard Philpot of Manchester served in Vietnam and, sadly, perished in Thailand. Family members saw a lot of similarities between Ed and his uncle, who died before Ed was born. ''Both were quiet, warm, and caring individuals, and both gave the ultimate sacrifice while serving their country,'' says Renee.

Raised by his parents, Ottas and Willa Philpot, Ed grew up a student of history. He soon amassed a personal library of books on many historical figures. He was also a fan of mystery books, and enjoyed a sharp political debate.

Ed was born in Farmington, MI, and grew up in that State. As a child, he spent all his holidays and most of his summers in Kentucky, in Manchester, with his paternal grandparents Walter and Lillie Philpot, and would travel back and forth often between Kentucky and Michigan.

When Ed was only 8 or 9 years old, he began to learn how to play the saxophone. One day he took out his horn to practice and found a perfect audience in Sandy, the family dog, sitting on the patio. Young Ed began playing with all the charisma and passion he could muster, but it wasn't good enough for Sandy, who ran all the way to the backyard and buried her head beneath her paws. Thus ended Ed's musical career.

Ed graduated from Garden City High School in Garden City, MI, in 1987 and Coastal Carolina University in Conway, SC, in 1992. After college, Ed returned to Manchester, where he spent some of the happiest times of his youth.

Ed went into law enforcement, becoming the director of a home incarceration program. In 1995, he married Stephanie, and they raised three beautiful daughters, Hollen, Lily, and Ella Grace. Eventually, Ed and his family settled in South Carolina.

Ed's family was the most important thing to him. ''He would take his daughters out to the coffee shop for cookies on Saturday mornings,'' his sister Renee said. Ed loved to take walks with them and ride them on his shoulders. He would also take them for daddy-daughter dates to celebrate their accomplishments.

Sergeant Philpot's family ''was clearly his life and his motivation,'' says MAJ Bill Connor, who served with him in Afghanistan. ''He spent his little bit of off-duty time going to the nearest bazaar to buy trinkets for his daughters and his family.''

Ed enlisted in 2001 and served with the South Carolina Army National Guard's 1st Battalion, 263rd Armor Regiment in Afghanistan, where he was promoted to sergeant. He enjoyed the simple pleasure of giving candy to Afghan children.

''He was one of the most dedicated men you would ever see,'' said SGT Kenneth Page, who served alongside Sergeant Philpot. ''He always liked to hang around at the armory, even when it wasn't drill weekend. He just liked to be there.''

The Philpot family is in my prayers today as I recount Ed's story. We are thinking of his wife Stephanie; his daughters Hollen, Lily, and Ella Grace; his father Ottas; his mother Willa; his sister Renee Crockett; his nephew Trevor Crockett; his niece Taylor Crockett; and many other beloved family members and friends.

Ed was predeceased by his grandparents Walter and Lillie Philpot and Tom and Viola Hollen, all of Manchester.

His funeral service was held October 30 last year in Manchester at the Horse Creek Baptist Church. After the service, the funeral procession stopped for a moment of silence in front of Hacker Elementary School, where the entire student body and staff assembled outside. Ed's parents had both attended Hacker Elementary as children.

Thirty-eight young students each held a red, white, or blue balloon, one for each year of Ed's life. At the same moment, they released the balloons up into the air. The rest of the students held up American flags, in honor of the soldier who had given his life for that same flag.

''Ed was always quick with a smile and a positive attitude that was remembered by all,'' says his sister Renee. ''He is definitely a hero.''

I want the Philpot family to know that this Senate agrees, and today we honor SGT Edward O. Philpot's life of honor and of service. His immense sacrifice made on behalf of his Nation, State, and family allows us all to live in freedom.

IMPORTANT MILE MARKER IN WAR ON TERROR

Mr. President, an important mile marker in the war on terror was passed late Tuesday night. A terrorist by the name of Imad Mugniyah, one of the world's most wanted murderers and a top commander of Hezbollah, was killed in Damascus. With his death, long-delayed justice has finally been served.

News reports are still coming in, and so far no one has claimed responsibility for his death. But we know one thing for certain: As Sean McCormack, a spokesman for the State Department put it, ''The world is a better place without this man in it.''

Let me describe for my colleagues just a few of this murderer's many heinous crimes. American officials accuse him of plotting the 1983 bombing of a U.S. Marine compound in Beirut, killing 241 troops.

He is accused of masterminding a car bomb which exploded at an American embassy in Beirut, also in 1983, killing 63 people.

American prosecutors charged him in the hijacking of a TWA jetliner in 1985. He is also accused of shipping arms to violent, radical terrorist groups.

And then there is one brutal act that struck deep in the heart of my hometown of Louisville, KY. Imad Mugniyah was behind the brutal kidnapping, torture and murder of U.S. Marine COL William Richard Higgins.

Colonel Higgins was a Kentuckian, born in Danville. He graduated from Southern High School in Louisville, participated in ROTC at Miami University in Ohio, and served multiple tours in Vietnam.

Over a 20-year military career, he received numerous medals and awards, including the Defense Distinguished Service Medal, the Defense Superior Service Medal, the Legion of Merit, the Bronze Star with combat ''V'' and the Purple Heart.

On February 17, 1988, Colonel Higgins was captured by armed terrorists in Lebanon while serving on a U.N. peacekeeping mission. He was held, interrogated and tortured.

A year and a half after his capture, terrorists released a grisly videotape of Colonel Higgins's lifeless body, hung by the neck, which played on television sets around the world.

In Louisville, we built a memorial to Colonel Higgins on the grounds of his alma mater, Southern High School.

We were outraged then and we are still outraged now to see what happened to this good and brave man at the hands of thugs.

Now, at long last, we know justice has been brought to his murderers.

In an essay titled ''My Credo,'' Colonel Higgins once wrote: ''As an officer of Marines, I believe it is my charge to set the example.''

Well, Colonel, the high-school students in Louisville who pass by your memorial every day will always remember the example you set. You served your country with pride, and now may rest in peace.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, it is difficult to speak publicly or privately expressing your views that you are glad someone is dead, but I say, through the Chair to my friend, the distinguished Republican leader, I join in his remarks. This was a vicious man.

There is nothing we can do to restore the lives of those he is responsible for killing, the number of which we don't know.

But what happened yesterday will cause this man not to be involved in killing other innocent people. So as difficult as it is to recognize that someone's life has been snuffed out, it goes without saying that for mankind this was the right thing to do. However it happened, it was the right thing to do. This was a person who was waiting for the next opportunity to see what he could do to act out his devilish ways.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk on the substitute amendment.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report 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 Dorgan substitute amendment No. 3899 to S. 1200, the Indian Health Care Improvement Act Amendments.

Harry Reid, Russell D. Feingold, Kent Conrad, Richard Durbin, Amy Klobuchar, Patty Murray, Maria Cantwell, Jon Tester, Jeff Bingaman, Carl Levin, Max Baucus, Byron L. Dorgan, Barbara Boxer, Dianne Feinstein, Debbie Stabenow, Ken Salazar, Daniel K. Akaka.

CLOTURE MOTION

Mr. REID. Mr. President, I send a second cloture motion to the desk on the bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report 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 S. 1200, the Indian Health Care Improvement Act Amendments.

Harry Reid, Russell D. Feingold, Kent Conrad, Richard Durbin, Amy Klobuchar, Patty Murray, Maria Cantwell, Jon Tester, Jeff Bingaman, Carl Levin, Max Baucus, Byron L. Dorgan, Barbara Boxer, Dianne Feinstein, Debbie Stabenow, Ken Salazar, Daniel K. Akaka.

Mr. REID. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the substitute amendment occur at 5:30 p.m., Monday, February 25; that if cloture is invoked on the substitute, all postcloture time be yielded back except for the times specified in this agreement, and that the managers each have 10 minutes of debate for their use;

that all debate time be equally divided and controlled in the usual form; that Senator DEMINT be recognized for up to 1 hour to speak with respect to any of his pending germane amendments; that with respect to the Vitter amendment No. 3896 and a first-degree germane amendment from the majority on the subject matter of Vitter, that debate time on these two amendments be limited to 60 minutes each; that the Smith amendment No. 3897 be limited to 20 minutes of debate; that no further amendments be in order, and that upon the use of time with respect to the DeMint amendments, the Senate then proceed to vote in relation to the amendments; that the vote sequence occur in the order in which the amendments are listed in this agreement except the majority amendment with respect to the Vitter amendment would occur first; that there be 2 minutes of debate prior to each vote; further, that upon the disposition of all pending amendments, the substitute, as amended be agreed to, and the bill be read a third time, and the Senate then proceed to vote on the motion to invoke cloture on the bill; that if cloture is invoked, all postcloture time be yielded back, and without further intervening action or debate, the Indian Affairs Committee be discharged from further consideration of H.R. 1328, the House companion, and the Senate then proceed to its consideration; that all after the enacting clause be stricken, and the text of S. 1200, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, passed, and the motion to reconsider be laid upon the table; that upon passage of H.R. 1328, S. 1200 be returned to the calendar; further, that the mandatory quorum be waived; provided further that if cloture is not invoked, this agreement is null and void.

I would further inform all Members that debate time utilized will be utilized on Monday. We will have three votes on Monday beginning at 5:30, and we will have the other two votes Tuesday morning. Senator KYL asked for this. I think it is reasonable.

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

Mr. REID. Mr. President, let me say that I send my appreciation to Chairman DORGAN and Ranking Member MURKOWSKI. They worked very hard. Of course, I want to express my appreciation to Senator KYL who has been involved in our getting to this point. He has been a big help to our getting here. It has been a difficult road.

It is a bill that is long overdue but certainly is necessary to do. I appreciate everyone's cooperation. I am going to confer briefly, in a matter of minutes, with the distinguished Republican leader to determine if there is any reason for us to be in session tomorrow. That announcement will be made very quickly.

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.

MORNING BUSINESS

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

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

The Senator from West Virginia is recognized.

CELEBRATING PRESIDENT'S DAY

Mr. BYRD. Mr. President, on Monday, February 18, the United States will celebrate President's Day. President's Day takes on a particular significance this year, as the Nation is actively involved in the selection process for a new President. It is heartening to see the level of interest and participation in all of the Presidential campaign events and in the primaries and caucuses. It is a sign that Americans' faith in the basic processes of their Government is still strong, even as a recent poll indicates that the public holds a very low opinion of the current President and of Congress. In a 1789 letter to Richard Price, Thomas Jefferson wrote that, ''Whenever the people are well-informed, they can be trusted with their own Government. Whenever things get so far wrong as to attract their notice, they may be relied upon to set them to rights.'' I believe we are witnessing the truth of Thomas Jefferson's observation.

As early as 1796, Americans were observing the birthday of our first, and still one of our greatest, Presidents, George Washington. According to various old style calendars, George Washington was born on either February 11 or February 22, 1732. On whichever date people preferred, President Washington's birthday was feted with ''Birthnight Balls,'' speeches, and receptions. Here in the Senate, one of our most enduring traditions is the annual reading of Washington's 1796 Farewell Address by a current Member of the Senate. This practice began in 1862, and became an annual event in 1893. Beginning in 1900, the Senator who read the address then signed his or her name and perhaps wrote a brief remark in a book maintained by the Secretary of the Senate. For the historically curious, both Washington's Farewell Address and a selection of the remarks from the book can be found on the Senate's Web site (www.senate.gov/artandhistory/history/common/generic/FarewellAddressBook.htm).

After the 1865 assassination of President Lincoln, another revered President who was also born in February, similar memorial observations sprang up around the Nation. In 1865, both Houses of Congress gathered for a memorial address. President Lincoln's birthday became a legal holiday in several States, although it did not become a Federal holiday like President Washington's. However, in 1968, legislation was enacted to simplify the Federal holiday schedule. As a result, Washington's birthday observance was moved to the third Monday in February, regardless of whether or not that day was February 22. Officially, this holiday is still known as Washington's Birthday, but it has become popularly known as President's Day to honor both Washington and Lincoln, as well as all who have served as President.

Why were President Washington and President Lincoln so widely and spontaneously revered by the public, even in the immediate aftermath of their deaths, before time had a chance to burnish their memories and fade their less enobling characteristics? Certainly, the great events that were shaped for the better by their decisions were a major factor. Both George Washington and Abraham Lincoln made a name for themselves as inspiring leaders of men and the Nation during pivotal wars in our Nation's history. Both demonstrated true patriotism, a deep love of the Nation that was the prism through which they viewed all problems and made all decisions. Both men selflessly sacrificed their own personal lives to serve the Nation throughout their lives.

In honor of President's Day, I urge everyone to listen to or read Washington's Farewell Address and apply its wisdom to the Nation's current situation and to the decision each of us will make in November. A collaborative effort between George Washington and the authors of The Federalist Papers, James Madison, Alexander Hamilton, and John Jay, Henry Cabot Lodge wrote of the Farewell Address that ''. . . no man ever left a nobler political testament.'' In it, Washington supported the Federal Government as ''a main pillar in the edifice of your real independence . . .'' warned against a party system that ''. . . serves to . . . agitate the Community with ill-founded jealousies and false alarms . . .'' and ''. . . kindles the animosity of one . . . against another.'' He stressed the importance of religion and morality, famously warned against the entanglements of permanent foreign alliances, cautioned against an over-powerful military establishment as '' . . . inauspicious to liberty . . .'' and urged the Nation to ''. . . cherish public credit . . .'' by using it as little as possible. Only then could the Nation avoid the accumulation of debt, because ''. . . towards the payments of debts there must be Revenue, that to have Revenue there must be taxes; that no taxes can be devised, which are not . . . inconvenient and unpleasant.'' We cannot have our cake and eat it, too—tax cuts and deficit spending cannot occur simultaneously if the economy is to remain sound over the long run.