

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 President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I rise today to comment on Mr. Geithner's nomination to be the Secretary of the U.S. Department of the Treasury. Although I became a member of the Senate Finance Committee only Thursday, I have spent considerable time reviewing the nomination documents and testimony of Mr. Geithner. I also brought to bear my expertise as an accountant and long-time member of the Senate Banking Committee to make a determination on Mr. Geithner's qualifications. After thoughtful deliberation, I voted against his nomination in the Senate Finance Committee. I continue to oppose his nomination today, and urge my colleagues to do the same.

The position of Secretary of the Treasury is one of the most important nominations this chamber considers. The Treasury executes the domestic and international economic policy of the United States; our trade policy, the purchase and sale of public debt, regulation of national banks, and of course our tax policy. All revenues of the Federal Government pass through the doors of the Treasury.

This position is even more meaningful when we consider the economic condition of the United States today. We are in the middle of a global financial crisis. The U.S. economy is slowing and Americans are losing their jobs, homes, and retirement savings at an alarming rate. The Secretary of the Treasury will be immediately tasked with turning our economy around. This challenge can only be met by the most capable and qualified candidate. Unfortunately, I do not believe that candidate is Mr. Geithner.

As chairman of the New York Federal Reserve, Mr. Geithner helped to orchestrate major bailouts for Bear Stearns, AIG, Citigroup, and others. These bailouts have cost American taxpayers billions of dollars. The AIG bailout alone cost \$85 billion in September, 2008. Many of the actions taken by the New York Federal Reserve, under Geithner's leadership, were beyond the purview of the Emergency Economic Stabilization Act and taken without the explicit consent of Congress.

The money used in these bailouts was spent without transparency or accountability. They were also spent on corporate retreats and executive compensation instead of loans to thaw our frozen credit markets. Mr. Geithner's career at the New York Fed should be described more as a financier of Wall Street than as a steward of American monetary policy. I am apprehensive about supporting the nomination of someone who puts shareholder interests above the needs of hardworking taxpayers.

Mr. Geithner has also failed to provide specifics about his plans to use the

remaining \$350 billion in TARP funding. His testimony before the Senate Finance Committee last week displayed the same urgency and strong language as former Secretary Paulson's testimony before the Senate Banking Committee in September. Soon after, however, we saw that money spent in ways unaccountable to and unintended by the U.S. Senate and the American taxpayer. Measurable goals and clear direction are absolutely required if American taxpayers are to fully understand how and why their money is being spent to assist failing banks and companies. So far, Mr. Geithner has provided neither. I have not and will not support massive Government intervention to rescue private industry.

Finally, I believe Mr. Geithner's failure to pay \$34,000 in Social Security and Medicare taxes is inexcusable. The Treasury Secretary is in charge of the Internal Revenue Service and the enforcement of our Nation's tax code. As one of my colleagues already noted, "How do I explain to my constituents that I voted to confirm someone who will make them pay taxes, but sometimes does not pay his own taxes?" This negligent behavior deserves more than a simple slap on the wrist or half-hearted apology before a Senate committee.

In previous years, nominees for positions that do not oversee tax reporting and collection have been forced to withdraw their nomination for more minor offenses. They have been ridden out of town on a verbal rail. They have been forced to withdraw. The fact that we are in a global economic crisis is not a reason to overlook these errors. It should be a reason to more closely scrutinize Mr. Geithner's record and his judgment.

The Treasury Secretary makes policy decisions every day that impact the global financial markets and put America on a new economic path. These decisions are often made without the explicit consent, or even knowledge, of those outside the administration. While the Senate cannot scrutinize and debate every decision the Secretary makes, it is our duty to ensure the President's nominee has the character and judgment necessary to perform these duties successfully. Mr. Geithner's past negligence casts doubt on his qualifications in this regard.

Some of my colleagues in the Senate have argued that, despite these concerns, President Obama should have his choice of economic counsel confirmed because he is the President. I respectfully disagree. We are charged with the advice and consent of nominees under the Constitution. Are we saying there is only one person in the whole world qualified to handle the situation as it is today? With the broad authority granted to the Treasury Secretary and the enormous challenge facing the new Secretary to right our country's economic ship, President Obama's choice impacts every American in a very per-

sonal way. The Senate would not be doing its duty if we simply confirmed this nominee without addressing these issues.

Many of my constituents are asking, "Are you seriously considering putting someone who failed to pay their taxes in charge of the department which controls the IRS? You couldn't find anyone better?" Yet that is exactly what we are doing. Many of your constituents are asking the same thing, but my voice seems to be one of the few of dissent. But that is not why we have a Senate. The Senate is not supposed to be a group of "yes men" rubber stamping everything the executive branch sends us. We are supposed to stand up, stand up and reason during the rush. We are supposed to think and then act based on understanding and knowledge. We are not doing so today.

Mr. President, I intend to vote against the nomination of Mr. Timothy Geithner as Secretary to the U.S. Department of the Treasury. The Senate needs more time to fully address the problems I have identified and debate Mr. Geithner's qualifications. I respectfully urge my colleagues to vote no.

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

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

The assistant legislative clerk called the roll.

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

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

#### SCHIP REAUTHORIZATION

Mr. KYL. Madam President, this week the Senate is considering the so-called SCHIP bill, the State Children's Health Insurance Program, which is what SCHIP stands for. It is a program that has been worthwhile to take care of kids who are from families of lower income and need help with their health insurance. Last year, we attempted to work in a bipartisan way to get a reauthorization of the so-called SCHIP bill. This year, however, the Democratic majority has decided to work it alone, to write a partisan bill without Republican input. In fact, every single one of the Republican amendments offered during the Finance Committee markup of this bill last week was defeated. There was one small amendment that was accepted; otherwise, they were all defeated.

It is my judgment that this is not the best way to start off the year—working together, bridging the partisan gap, all of the things President Obama talked about, trying to put the old politics behind us—if we are simply going to approach something this important on a partisan basis.

I rise to talk about four specific ways in which I hope we can come together and work in a more bipartisan way to improve the bill. It doesn't put low-income children first, and that should be the whole point of the SCHIP bill.

First, it expands SCHIP to higher income families—in fact, for two States and only two States, for families making \$88,200 a year. That is not for the State of the Presiding Officer or for my State. That is only for New York State. People in New York State would be able to make \$88,000 per year—actually, about \$40,000 even above that—and qualify. So it is not about helping low-income children.

Second, it removes about 2.5 million people who are already in private insurance programs with their employer. It will result in their leaving the employer's health care coverage to come to a Government-sponsored program, something called the "crowd out" effect.

Third, it is actually not even paid for in the sense that we normally treat these authorization bills. We try to make sure that whatever new spending we provide is offset by some other spending. But there is a budget gimmick that is used to account for the spending in this bill.

Finally, for the first time it significantly expands the program to include not only citizens but legal immigrants, primarily green card holders. It eliminates most of the requirement for demonstrating eligibility for citizens, which would result in a lot of illegal immigrants getting coverage.

In these four important areas, we ought to work together and find a way to amend the bill before we end up voting on it, perhaps at the end of the week.

Let me first turn to the question of the budget gimmick. Sometimes you say how much something costs. In the Senate, our scoring always requires that we show a 5-year cost and a 10-year cost. That is a good thing to do. What they do in this bill is make it work, in effect, for about 4.5 years, then they slow the spending way down so that it doesn't look as if it is going to cost any more. The result would be that we would have to disenroll millions of children. Think about it. Are we being honest when we have a level of spending for 4.5 years and then it drops off a cliff to virtually nothing? Are we honest to say that is the 10-year cost of the bill when we know we would have to disenroll kids in order to make it work that way? No. The reality is, we are going to continue to keep the level of spending for the entire 10 years, and the bill, therefore, will cost about twice as much as we say it is going to cost. In fact, the Congressional Budget Office, which pays attention to these things, says the cost of the bill is going to be about \$115.2 billion over 10 years, of which only \$73.3 billion is offset. So the net result is a \$41.6 billion deficit spending bill for fiscal years 2009 through 2019. That is the first problem.

The second problem is that the bill is not limited to low-income families. In fact, it is extended to quite high-income families. It permits States to cover children from families earning as

much as \$66,150 per year. That is 300 percent of poverty. That is well above SCHIP's original intent of 200 percent of poverty. Of course, the more you increase the income level, the more likely it is that you are going to crowd out people who already have insurance.

As I mentioned, there is even an exception for New Jersey and New York which would allow families in New Jersey earning approximately \$77,175 per year to qualify, and in New York, \$88,200 a year or 400 percent of poverty. Let me put this in perspective. In Arizona, the Arizona KIDS Program covers families earning \$44,100 per year or 200 percent of poverty. That is low-income families. But under this bill, Arizona's hard-earned taxpayer funds will be sent to cover families who earn twice that much in New York State. That is not fair. It is not right.

To make matters worse, the committee acknowledged that States may intentionally disregard tens of thousands of dollars worth of income in order to make a child eligible. They could disregard, for example, \$20,000 a year in housing expenses, \$10,000 a year in transportation expenses, \$10,000 a year for clothing expenses. The net result is that if Congress sets this level of \$88,200 for New York and then allows \$40,000 worth of income disregards, children could actually come from families earning nearly \$130,000 and still be eligible for SCHIP. That does not comport with what either Senator Obama said he wanted or what most of us think would be fair.

Third, I talked about the crowd-out effect, especially by extending this to higher income families. We are going to replace a lot of private insurance with Government insurance. In fact, according to the Congressional Budget Office, about 2.5 million individuals will lose their private coverage under this bill.

It is interesting that last year we raised this problem. It was considered to be a serious problem. But my amendment to try to deal with that failed. Nevertheless, when the Democratic House leaders and Democratic Senate committee members got together, they wrote a provision to deal with the crowd-out, recognizing that it was a serious problem. They passed the bill. This was written in part by the chairman of the Finance Committee. That crowd-out provision, however, was dropped from this year's version of the bill. There is no crowd-out provision. So in the committee, I offered an amendment to insert their crowd-out language, the language drafted by the chairman of the committee, passed by the House and Senate last year. That amendment failed.

Well, maybe it is premature to deal with the problem of crowd-out. We know there is going to be crowd-out. The Congressional Budget Office says there will be, and the time to deal with it is before we adopt the legislation, not after.

Finally, let me close with the immigration-related section, section 214.

This eliminates the current 5-year bar allowing Federal coverage of Medicaid or SCHIP coverage for legal immigrants. These are primarily green card holders. Not even the House bill goes this far. The Senate bill actually eliminates the requirement that sponsors of immigrants reimburse the Federal Government for immigrants' coverage. This would be for the first time since actually 1882—our Federal law dates back that far—with regard to immigration.

We are a nation of immigrants. We invite immigrants to come here. My grandparents are immigrants. We want to make sure that when they come here, they don't immediately become a public charge or go on welfare. That is why, starting as far back as 1882, we said: You need to take care of yourself when you come here and not ask the Government to do it or at least have your sponsor affirm that he or she will take care of you. That was affirmed in 1996 when we updated the legislation.

This mark would eliminate that requirement, so that from now on legal immigrants, primarily green card holders, would be able to avail terms of this coverage. It is about 300,000 individuals estimated at a 5-year cost of \$1.3 billion. I don't have the CBO number for the 10-year cost. That number doesn't even begin to take into account people who are here illegally but who might actually make legal under some kind of immigration reform, if that were to happen. It is also estimated that about 100,000 of these 300,000 individuals would be crowded out from either private insurance or State insurance coverage. So we continue to have the crowd-out effect here.

The problematic section is section 211. This will likely increase the number of illegal immigrants and other ineligible individuals because it eliminates the current document verification to demonstrate that you are entitled to accept the benefits of the program. What this does is to say that all you have to do is provide a Social Security number. In my State, all of the illegal immigrants—virtually all of the illegal immigrants have Social Security numbers. In fact, they have a lot of Social Security numbers sometimes, most of which are probably not valid, some of which, however, are valid. So even if they are checked through the system, which this bill does not require, you would catch them. All you have to do is to say: Here is a Social Security number. Now let me avail myself of the benefits. That is the whole point of the immigration reform legislation. That Social Security number proves nothing with regard to eligibility. That would be substituted for the requirements already in the bill.

Are the requirements already in the bill onerous? I think not. There are four different levels of documentation you can provide. The last document, tier 4, is when you can't do any of the other things, you can simply have two

individuals affirm your citizenship. You can do this by mail. You don't even have to show up in person. So it is not as if we have onerous requirements today to participate in the program.

Even with the very generous provisions we have, it is my understanding from a GAO study in 2007 that we think most of the people who are eligible are signing up and we are not getting a lot of ineligible people signing up. In other words, people are not gaming the system, and that is a good thing. But why make it easier to game the system, especially to play into the hands of those who are here illegally, who use a Social Security number for work purposes and now could use it for this purpose, signing up for SCHIP.

We will have amendments that deal with each of these subjects. The bottom line is, we should get back to dealing with this subject in a way in which both Democrats and Republicans can have input into the bill and actually solve some of the problems. I know some of my Democratic colleagues were interested in this eligibility issue because they don't want a lot of people getting benefits who aren't entitled. It will only hurt those who are entitled. We need to have strong eligibility requirements.

We don't want to begin to expand this program to people who are not citizens of the United States and who have a contract with the United States when they come here as our guests, either on a temporary basis or on a green card. They understand their obligations when they come here. One of their responsibilities is not to begin to receive benefits of this kind from the taxpaying American citizen.

For these four reasons, I hope that when this legislation comes before us, we are able to not only amend the bill, work to amend the bill, but will actually have amendments adopted and that we can improve the legislation so that we can all be proud to support it at the end of the day. If not, an awful lot of Republicans, including myself, will not be able to support the legislation.

The PRESIDING OFFICER. The Senator from Florida is recognized.

#### GEITHNER NOMINATION

Mr. NELSON of Florida. Madam President, we all know because of what we have seen in our various States that our people are hurting; they are losing their homes; they are losing their jobs; they are falling behind in their mortgages; They are losing their businesses; and they are losing their life savings.

Now, we clearly have the mandate that, if it is humanly possible, we need to turn this economy around. So the people of this country are expecting to see us take some real action—real action—on trying to turn this economy around. We, in this position, representing our States, are very privileged to have the public's trust and the responsibility that comes with that

trust. Part of that responsibility means when there is a problem, we have to shine light on the problem and find out what it is.

Take, for example, what we have seen recently on the Wall Street greed, when you have a former Merrill Lynch executive spending almost a million and a half dollars on his office renovations while his company was forcing layoffs as well as having huge losses and while the company that was acquired—his company—was asking for billions of dollars, and receiving it, from the public moneys. Well, there is obviously a problem.

A number of us have filed legislation that is going to try to get at this issue. Even with this being put in the law, a new law saying none of this bailout money can be used for office renovations and political contributions or to go off on all these extravagant conferences or for corporate aircraft or for entertainment and holiday parties or for executive bonuses—all of these things that have come forth when the light of day is shone on them, having so enraged our people and our constituents—well, even if we get this into the law—and I hope we will be able to pass this legislation a number of us have filed—it is still going to take the administration riding herd on this issue every day, and that means primarily the Secretary of the Treasury.

We are going to be voting on the confirmation of the Secretary of the Treasury at 6 o'clock today. It is this Senator's intention to vote for Timothy Geithner. But what is it going to take to get Wall Street's attention and to restore the American family's quality of life? It is going to take real accountability. That means the next Secretary of the Treasury is going to have to ride herd and, when he appoints an accountability board, to make sure that board is meeting—like the last Secretary of the Treasury did not. They did not meet once to see how that first tranche of \$350 billion of the bailout money was being spent—not once.

So I come from the sunshine State. We believe in letting the sun shine in. This means not getting ahead of ourselves when Wall Street comes crying that one of their unregulated financial schemes threatens to destroy our way of life, and then turns around and throws some party on some Caribbean island. It means putting in place regulations with the right carrots and sticks so we are not gambling with our country's future.

So as we are about to confirm the next Secretary of the Treasury, there is not a more important mandate than for him to crack the whip and make sure this Federal money, this public money, this taxpayer money, is being spent as it was intended, and holding people accountable, and reporting the results. If we do not get the accountability and the transparency, if we do not get what we expect from the banks that willingly accept this money, then we should demand the public's money back.

I have spoken personally to the nominee, and he has said—and I want to quote him—"I completely get it." So I am assuming he is going to be confirmed today. I will vote for him. I expect swift action to back up these words. The American people expect swift action by all of us to bring Wall Street and this economy back in line. We do not have any time to waste. There is simply too much at stake.

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

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

#### ISSUES FACING AMERICA

Mr. DURBIN. Madam President, this is the first full week of our new administration, and many of us sense things have changed for the better, and we are hopeful. We can't assume anything because there is a lot of hard work ahead, and we are going to have to try everything we can to resolve some of the major issues that face our country that we can address in the Senate.

We were successful last week, in passing with 61 votes—bipartisan roll-call—the Lilly Ledbetter legislation. This was a bill which tried to cure a problem created by a Supreme Court decision that was questioned about whether women should be entitled to equal pay for equal work. Lilly Ledbetter, after 15 or 16 years working at a tire company in Alabama, discovered that within her job classification men were being paid more than she as a woman. She did not discover this until she was about to retire. So she filed a lawsuit and the Supreme Court across the street reached a conclusion which no other court had reached and said Ms. Ledbetter could not recover because she didn't report the first discriminatory paycheck paid to her in—I think it was 180 days. Her answer, which most people who work in the private sector would say, is, How am I supposed to know what the fellow next to me is getting in his paycheck? They don't publish these things. So when she did discover it and filed it, they said she was too late.

So we changed the law so, if there is discrimination, a person will have their day in court. They will have a fair hearing. The reasonable attempts to discover the information are enough. The Supreme Court standard was unreasonable. So that is the first thing we will pass, sending that to our new President, President Obama. It is a bill which we considered before under