across the country, the Senate has already put forth a health reform plan that will work for you. It will work for sill-mil businesses. It will work for Americans with pre-existing conditions. It will work for Americans struggling to pay health care premiums. It will work for Americans who are in small businesses. It will work for Americans who are one illness away from their family going into bankruptcy. It will work for Americans who are uninsured. It will work for Americans who have been victims of hospital errors. It will work for Americans who need preventive services they cannot afford.

Most importantly, it will work for Donna, for Madeline, for Shirley, for Judith, and for David, and it will work for their fellow Americans all over this country whose stories are all too similar. Heartache, frustration, exhaustion, and disgust with a health care system that has, at best, disappointed them, and at worst, turned its back on them. The Affordable Health Choices Act offers these Americans a hand up when they need it most, and I am proud to support it.

Before I yield the floor, I want to take one moment to thank the distinguished senior Senator from Iowa for his courtesy in allowing me to proceed. I know he has substantial remarks he wishes to deliver. I hope it was not too much of an inconvenience.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

DEBT AND DEFICIT

Mr. GRASSLEY. Mr. President, I thank the Senator from Rhode Island for his kind remarks.

We are only 9 months into fiscal year 2009, and for the first time in American history the Federal deficit has reached and exceeded $1 trillion. This is not one of those firsts for our great Nation that calls for celebration, and there will not be any celebration.

Unfortunately, the bad fiscal news is not yet over for the year. We are still on track for a year-end deficit of over $1.8 trillion for fiscal year 2009. That is not according to this Senator, that is according to our official scorer, the Congressional Budget Office, the nonpartisan organization.

This 2009 deficit as a percentage of gross domestic product will be a staggering 13 percent, the highest rate since the end of World War II. I have a chart that shows this, a chart that puts the deficit in context.

Here is also a chart that puts the debt into context. I want to remind the Senate that I agree with President Obama that he did, in fact, inherit part of these deficits and debt. What is not often pointed out is this: The deficits and debt were bequeathed back then on a bipartisan basis because the Democrats controlled the last Congress. Starting in the year 2007 that Congress wrote the budget, it wrote the spending bills; that democratically controlled Congress wrote the financial bailout bill. A Republican President, George W. Bush, signed those spending bills. President Bush signed the financial bailout bill. The chart shows the bipartisan deficit President Obama inherited—and that would be the gray part of the deficit chart—and the chart shows the bipartisan debt President Obama inherited. That would be on the chart as well.

Today we have seen more revisionist fiscal history from many of my friends on the other side. It boils down to two very basic propositions. The first proposition is, all good economic policy and beneficial fiscal effects are due to the partisan tax hike of 1993. The second proposition is that all bad economic policy and detrimental fiscal effects of this decade are due to the bipartisan tax relief plans of 2001 and 2003.

How convenient for my friends on the other side of the aisle. If we take this fiscal revisionism to its logical extreme, the answer of some on the other side might be to tax every dollar of income earned by the American taxpayer. There seems to be an attitude that any policy that allows Americans to keep more of their own money is just automatically bad, while any policy which takes more of their money and spends it is automatically good.

I think it is fairly clear the fiscal revisionists on the other side do not have a problem with huge deficits; rather, they are threatened by the prospects of Americans deciding what they want to do with their very own money.

In fact, the deficit effects of the stimulus bill passed within a short time after Democrats assumed full control of the Federal Government exceeded the deficit impact of the 8 years of the bipartisan tax relief. Again, this is comparing the tax relief with the stimulus as you see in the chart.

Since the stimulus package spilled a lot of red ink, let's take a look at how the economy has done. Unemployment currently stands at 9.5 percent, the highest rate in the last 26 years. The economy has shed 6.4 million jobs since this recession began, and that also includes, though, 2.6 million jobs lost since President Obama took office.

Even with the passage of the massive $787 billion stimulus bill in February, the promise of jobs, jobs, jobs that went with that $787 billion stimulus bill, there is still no end in sight to the rise of unemployment and job losses.

The President himself recently said:

> My expectation is that we will probably continue to see unemployment kick up for several months.

While the short-term news is bad, I have bad news for you. The long-term news is much worse. If the Obama budget is adopted, by 2019 we will have added over $9 trillion to the national debt held by the public, and our debt as a percentage of the economy will grow in excess of 80 percent, in excess of 80 percent, a level also that has not been seen since this country was in World War II.

Let me say, the 50-year average of that national debt, according to the economy, has been about 40 percent. So we are talking about more than doubling what it has been over the last 50 years.

The huge spike in spending that we have seen over the course of the past 9 months has been advertised as temporary. But even so, the deficit as a percentage of GDP in 2019 is projected to be 5.5 percent, a level that everybody, including the President, agrees is unsustainable. You can see that on our charts as well.

Looking beyond the 10-year window paints an even bleaker picture. I have a chart from the Congressional Budget Office that projects a terrifying rise in debt held by the public as a percentage of GDP over the next 40 years. As we can see from the dotted line, the highest level of debt held by the public as a percentage of GDP, 107 percent, occurred in 1945 as a result and at the end of World War II. In either of the two scenarios outlined in the Congressional Budget Office's long-term budget outlook, shown by the red and green lines on the chart respectively, we are on a course to break this record sometime in the next 15 to 35 years and reach ratios of debt to GDP of up to 128 percent or, at the extreme, 321 percent by 2050.

The Congressional Budget Office's own words are these:

> The systemic widening of budget shortfalls projected under CBO's long-term scenarios has never been observed in U.S. history.

Some may ask: Why is this a big deal? What does debt held by the public have to do with my everyday life? The Congressional Budget Office makes three points answering this question. This is the Congressional Budget Office, a nonpartisan group of experts whose sole job is to project, at least 10 years ahead of time, what the situation is with every spending bill and the impact of the deficit. This is what they say: If the ratio of debt to GDP continues to rise, lenders may become concerned about the financial solvency of the government and demand higher interest rates to pay for the increasing riskiness of holding government debt. No. 2, if the debt-to-GDP ratio keeps increasing and the budget outlook is not improved, both foreign and domestic lenders may not provide enough funds for the government to meet its obligations. And No. 3, if the first two points happen, no matter whether the government resolves the fiscal crisis by printing money, raising taxes, cutting spending or going into default, it is certain that economic growth will be seriously disrupted.

Whenever economic growth is seriously disrupted, job growth is seriously disrupted as well. Clearly, a debt-to-GDP ratio approaching 100 percent would have a disastrous impact on everybody's everyday life.

So where do we go from here? Clearly, we are well on our way to fiscal catastrophe unless we change course. What is the best way to break out of this recession, to start creating jobs, to reverse the mountainous growth of deficit and debt and get the economy moving again? That is a very important and long question. Let me see if I can answer. In general, Democrats and Republicans seem to have opposing viewpoints when it comes to the solution to this problem, with Republicans favoring lower taxes and lower spending, while Democrats favor higher taxes and higher spending. However, both Republicans and Democrats agree that health care reform is a crucial ingredient to solving the long-term budget crisis.

Both Republicans and Democrats agree health care reform needs to be paid for as well. The Congressional Budget Office is also on the same page, asserting that, in their words:

> In the absence of significant changes in policy, rising costs for health care will cause federal spending to grow much faster than the economy, putting the federal budget on a nonsustainable path.

Over the past few months, the rising cost of health care has been characterized by a few creative illustrations. First, we have heard the chairman of the Budget Committee refer to the rising cost of health care as ''an 800-pound gorilla.'' Second, we have heard the President describe the rising cost of health care as ''a ticking timebomb.''

Today I wish to add a third illustration. The rising cost of health care is a massive, fire-breathing debt and deficit dragon. In the King Arthur legend, the greatest knight among the Knights of the Round Table was Sir Lancelot. Sir Lancelot was also a dragon slayer. In order for Sir Lancelot to strike down the dragon, he had to be equipped with suitable weapons. The same is true today with the rising cost of health care. As Congress contemplates ways to cut down on the massive, fire-breathing debt and deficit dragon, it must wield the proper weapons.

As you can see here, we have the debt and deficit dragon.

A few weeks ago, House Democrats proposed a graduated surtax of up to 5.4 percent on taxpayers making over $280,000 to partially offset their health care reform bill. This small business surtax would push the top marginal tax rates up to between 43 percent and 46.4 percent, a rate that would jump to over 50 percent in 39 States with Medicare and State and local taxes added in. This is according to the Tax Foundation. So is this small business surtax the proper weapon to strike down the debt and deficit dragon? I have a chart that shows not Sir Lancelot but Sur Taxalot on his way to slay the debt and deficit dragon with his mighty surtax. This is Sur Taxalot, as we can see. The surtax is a large, heavy, painful weapon and lethal to America's job engine, the goose that lays the golden egg, small business America.

Take a good look at Sur Taxalot.

However, it is not effective against the debt and deficit dragon because it does nothing to slow the dragon's exponential growth. The cost of health care that the dragon feasts upon will continue to increase much faster than the revenues that Sur Taxalot can collect with his surtax.

CBO Director Doug Elmendorf testified in front of the Budget Committee 2 weeks ago. Dr. Elmendorf stated: None of the legislative changes looked at by CBO so far, including the House Democrats' small business surtax, ''represent the sort of fundamental change of the order of magnitude that would be necessary to offset the direct increase in federal health costs from the insurance coverage proposals.''

Clearly, unlike Sir Lancelot, Sur Taxalot is no dragon slayer.

Now let's look at how House Democrats' small business surtax works. In 2011 and 2012, singles making between $280,000 and $400,000 and families making between $350,000 and $500,000 will pay an extra 1-percent surtax. Singles making between $400,000 and $800,000 and families making between $500,000 and $1 million will pay an extra 1.5 percent. Finally, singles making more than $800,000 and families making more than $1 million will pay an extra 5.4 percent. Then in 2013 and after, these surtax rates go up to 2 percent, 3 percent, and 5.4 percent, respectively. The only way these rates would not go up in 2013 is if the President's adviser, the Director of OMB, determines in 2012 that there will be more than $675 billion realized in estimated health care savings by the year 2019.

That is right: The trigger mechanism is back. The House Democrats have made the surtax rate increase subject to a trigger. They have left the judgment on whether to pull the trigger in the hands of a partisan Presidential adviser, not a nonpartisan organization such as the Congressional Budget Office.

As Members of Congress, we should jealously guard our constitutional prerogatives to be the one branch of government tasked with deciding whether revenue is raised by increased taxes or revenue is reduced through decreased taxes. As the great Chief Justice John Marshall said almost 200 years ago:

> The power to tax is the power to destroy.

So why would we hand such an enormous power over to the executive branch? I recall, over the last 8 years, hearing from the other side of the aisle that the executive branch was attempting to usurp congressional authority. So where is that jealous guardian of congressional authority now? It seems to be absent.

We have seen this trigger mechanism from the Democrats before. While it has been a couple years, I have spoken at length about this trigger right here on the floor of the Senate.

I ask unanimous consent that a copy of my speech of May 9, 2007, entitled ''A Trigger and a Tax Hike on the American People'' be printed in the RECORD.

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

STATEMENT OF SENATOR CHUCK GRASSLEY: A TRIGGER WILL NOT PREVENT A TAX HIKE ON THE AMERICAN PEOPLE

Mr. President, press reports indicated we may be in the ninth inning of the budget season. The President sent his budget up to Capitol Hill over three months ago. The Senate Budget Committee marked up a budget resolution. It passed the Senate. That resolution lays out the Democratic Leadership fiscal priorities for the next five years. As everyone knows, the American People spoke last November and sent a Democratic Majority to both Houses of Congress. For the first time in 12 years, Democrats have the privilege and the responsibility for our budget.

The Senate spoke very clearly in support of some tax relief. The voice came in the form of the Baucus amendment. My friend, the Chairman, secured $180 billion to prevent part of the big tax increase that will go into effect on January 1, 2011. Although the Baucus amendment only provides 44 percent of the tax relief room needed, it is far superior to the House position. The House position is zero tax relief. That's right, Mr. President, zero tax relief. Zero tax relief means a total tax increase of $936 billion over 5 years. That's the largest tax increase in history and one that occurs without a vote of Congress.

That tax increase means real dollars out of the wallets of real middle income families. I've got a chart here. The chart shows a wall of tax increase. This chart shows that a family of four at $40,000 will face a tax increase of $2,052. Now, for a lot of my rich liberal friends that may not seem like a lot of money. For a hard working family of four in Iowa, that $2,052 matters.

As a senior Republican member of the Budget Committee, I've not been consulted on the budget by our Chairman, but I've made my views clear to our distinguished Chairman. What I know about the budget I've learned from press reports. If those reports are true, I'd encourage the Chairman and Senate Leadership to stand strong for the Senate position.

Press reports indicate that the Democratic Budget Committee chairmen are working on a compromise that would condition the tax relief on a surplus. That is, the Baucus amendment would be subject to a trigger. Now, Mr. President, what's a trigger?

I have another chart. This chart deals with perhaps the most famous trigger. The chart shows ''Trigger,'' the cowboy actor, Roy Rogers', horse. You can see from the chart that Trigger is a pretty impressive looking horse. Would definitely like to have Trigger on my farm to help with the chores. Am sure my grand kids would want to ride him if Trigger were stabled on my farm.

As Western movie buffs know, Trigger is no longer with us. Trigger is stuffed and on display at the Roy Rogers-Dale Evans Museum in Branson, Missouri. Although Trigger was an impressive looking horse, this trigger device the Democratic Leadership is looking at is not impressive.

The trigger notion is something that has a long history with the Democratic Leadership. Back in 1996, the Clinton Administration and Democratic Leadership argued for a trigger for the $500 per child tax credit and other family tax relief proposals. They took this position after President Clinton had vetoed the bill containing the family tax relief proposals. If the Clinton Administration and the Democratic Leadership had prevailed, millions of American families would have received the $500 per child tax credit perhaps in 1999 through 2001 only. If the President Clinton and the Democratic Leadership had won and the trigger were in place, millions of families would have lost the child tax credit in the years 2002 to now.

The same dynamic occurred in 2001. With surpluses, the Democratic Leadership opposed broad-based bipartisan tax relief, including a doubling of the $500 per child tax credit. One of the ideas the Democratic Leadership flirted with was a trigger. There were a few Republicans attracted to the idea.

The trigger was debated somewhat, but never found to be workable. It is a complicated matter. It could be suggested that the mechanics of a broad-based tax trigger are like trigonometry. Trigonometry is a division of mathematics that deals with triangles. It is simple on its face, but you can see from this text book, can become complicated quickly.

Interweaving the complexity and uncertainty of triggered tax relief with the vast American economy could lead to a new term. That new term would be ''trig-o-nomics.'' As much as folks complain about uncertainty and complexity in tax policy, I don't think the Democratic budget negotiators should want to take us to the land of trig-o-nomics.

To some degree, the current law sunset of the 2001 and 2003 is a de facto trigger. If you look at those in opposition to permanence of the bipartisan tax relief, you'll find that it is, with very few exceptions, the same folks who like triggers.

The tax system is a very complex and pervasive force in our society. It affects all Americans and all economic activity. Creating conditional tax relief through a trigger mechanism would de-stabilize an already unwieldy tax system. How are families, businesses, and investors supposed to plan their affairs with a trigger hanging over current law tax rules that keep taxes low? Think about that, Mr. President. What would we be doing to the hard working American taxpayer?

As an aside, those taxpayers, by the way, are sending record amounts of revenue to the Treasury. The bipartisan tax relief plans of 2001 and 2003 are growing the economy. Revenues are ahead of projections by double digit figures for the third year in a row. It's there in the black and white of Treasury and CBO reports. The American taxpayer is doing his and her part to reduce the deficit. I ask unanimous consent to insert in the record a couple of articles from the BNA Daily Report for Executives, one dated May 3, 2007 and another dated May 7, 2007.

So, why trigger on tax increases, when the current law tax levels are bringing in plenty of money to the federal Treasury? It makes no sense to punish the American taxpayer.

The biggest problem I have with a trigger is that it creates yet another budget process bias for higher federal spending. If Congress decides to spend more than planned, the trigger gives the American taxpayer the shaft. Spending taxpayers' money trumps future promised tax relief if a trigger is in place.

The American taxpayer need look no further than the budget resolution conference to see triggered future tax relief's futility. After winning the November elections by claiming to enforce fiscal discipline, Democrats have done three things with the budgets in conference. One, they've guaranteed new spending of at least $205 billion over the budget baseline. Two, with multiple reserve funds, they've set up many arenas of new spending and new taxes. Three, for the first time in six years, a tax hike on virtually every American taxpayer is built into the budget in future years. Did the American People know that this was how fiscal discipline would be defined after the votes were counted? Higher taxes and higher spending? Did the American People vote for this definition of fiscal discipline in last year's campaign? My guess is the answer is the American taxpayer didn't think fiscal discipline meant higher taxes and higher spending.

If fiscal discipline were the real goal of the Democratic Leadership, they'd employ a trigger on the new spending they've baked in the budget cake. Mr. President, how about that? The new spending in this budget would only be triggered if the federal budget were in surplus. Do I have any takers among the Democratic budget negotiators?

Mr. President, before the Democratic Leadership rolled out its budget, I challenged them to show a proposal with a single dollar of spending restraint dedicated to deficit reduction. It's a challenge I've issued for several years as bipartisan tax relief has been attacked on fiscal discipline grounds. My challenge has not been met. If you go back a decade, you won't find a proposal for spending restraint from the Democratic Leadership. Check the record. You won't find anything on the spending side of the ledger.

The use of a trigger is more evidence of this obsession with taxing and spending. Instead of accepting the Baucus amendment, which is supported by strongly-bipartisan votes in both bodies, the Democratic negotiators are taking a different path. They want to use a trigger as cover. The trigger will likely mean future Democratic spending proposals will gut future tax relief, thereby guaranteeing a tax increase on virtually every American taxpayer.

Mr. President, it's not too late. I suggest that, if the Democratic budgeteers want to talk the talk of fiscal discipline, they need to walk the walk of fiscal discipline. Apply the trigger. But apply it to the $205 billion in brand new spending. Don't build a wall of tax relief on America's families. Build a wall of fiscal discipline against runaway federal spending.

I yield the floor.

Mr. GRASSLEY. I have a chart here from the 2007 speech that deals with perhaps the most famous trigger. Of course, I refer to Trigger, the horse belonging to the cowboy actor Roy Rogers. As I mentioned in the past, Trigger is no longer with us. Today he is stuffed and on display at the Roy Rogers-Dale Evans Museum in Branson, MO. Even so, Trigger, in his current stuffed state, is still much more imposing than the House Democrats' trigger device.

While past Democratic trigger proposals were bad, the current House Democrats' trigger proposal is even worse because it is under the control of a partisan OMB Director and is based upon an OMB Director's estimate—I repeat, an estimate—of health care savings for the years 2013 to 2019.

I do not think anyone really expects this trigger to be pulled. Even the nonpartisan Joint Committee on Taxation, in its $544 billion revenue estimate of the House Democrats' small business surtax proposal, assumes that the estimated savings targets will not be reached and the rates will go up, for sure, in 2013.

Clearly, on the question of how to pay for health care reform, Republicans and Democrats appear to be drifting in different directions. Republicans want to pay for health care reform through changes in the health care system—mostly on the spending side but also on the revenue side—to make health care more accessible and more affordable. In contrast, House Democrats' most recent proposal to pay for health care reform—the small business surtax—goes far outside the universe of health care.

By abandoning the universe of health care in their financing scheme, House Democrats are clearly indicating that the goal of their health care reform proposal is increased coverage at any cost. Even the New York Times—now, believe this: Even the New York Times, hardly a strident critic of the Democrats in Congress or the White House, cautions against this coverage-at-any-cost approach:

> If the government simply extends subsidized insurance to millions of uninsured people but fails to force fundamental changes in the delivery or financing of health care, then federal health care costs will keep escalating at excessive rates. That will drive up deficits in subsequent decades unless new taxes are imposed or new savings found.

That is the end of the quote from the New York Times.

We need to reform our health care system, but we need to do it right. That is why I am working with Senator BAUCUS, chairman of the Senate Finance Committee, along with Senators SNOWE, ENZI, CONRAD, and BINGAMAN, to reach a bipartisan solution. My Finance Committee colleagues and our staffs have been working hours and hours each day and night, and weekends, to navigate through the numerous complex issues of health care reform. Has it been easy? Obviously not. However, I am very hopeful we can reach a bipartisan agreement that makes health care in America more accessible and more affordable, while at the same time protecting taxpayers and preventing the Federal Government from taking over health care.

President Obama, in his prime time press conference last week, expressed his agreement with these principles. While stating generally that the reform he is proposing will keep government out of health care decisions, President Obama specifically made the following promises:

> I'm not going to sign a bill that, for example, adds to our deficit. I won't sign a bill that doesn't reduce health care inflation so that families as well as government are saving money. I'm not going to sign a bill that I don't think will work.

I will take the President at his words on these promises, but I am going to hold him to them. The President is sending a clear signal that he could not sign the Pelosi bill, the Health, Education, Labor, and Pensions bill, or similar pieces of legislation. Why? Because each of those would drastically expand the Federal Government's control of the health care system, increase the deficit, and fail to reduce long-term health care inflation.

Here is the bottom line. When the long-term budget outlook warns that rising health care costs will cause Federal spending to grow so fast as to put the Federal budget on an unsustainable path, Congress needs to take action. But, at the same time, when our goal is to reform 17 percent of the economy, while facing a nearly $2 trillion annual deficit, more than $9 trillion in new debt over the next decade, and a projected debt-to-GDP ratio of over 300 percent by 2050, we have to make sure we are doing this job right. That is what we are trying to do in the Senate Finance Committee. When we get finished, however long it takes, I hope we can send a deficit-neutral health care reform bill to President Obama that increases access, cuts costs, and puts us on a fiscally sustainable path for years to come.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

SOTOMAYOR NOMINATION

Mr. CHAMBLISS. Mr. President, I rise this evening to speak on the nomination of Judge Sonia Sotomayor to be the next Associate Justice of the U.S. Supreme Court.

We all know elections have consequences. Because of this, I have tried to give deference to the various nominees submitted by President Obama. I have not voted for all of his nominees, but I have voted for some even though I did not necessarily believe they were the best people he might have nominated.

The case of a nominee to the Supreme Court is unique. This is not a Cabinet member who will rotate out or leave at the end of the President's term. Supreme Court Justices are there for life and decide cases that will affect present and future generations of Americans.

With this in mind, I have reviewed opinions written or concurred in by Judge Sotomayor, reviewed speeches and writings of Judge Sotomayor, talked with lawyers who practice in New York, lawyers who have tried or argued cases before Judge Sotomayor, and others who know her by reputation, and also listened to and reviewed testimony before the Judiciary Committee in her confirmation proceeding. In addition, I spent the better part of an hour in a one-on-one conversation with the judge. Certainly, she has all the education and judicial background to be confirmed as a Supreme Court Justice. Her judicial temperament is not in question. Some lawyers felt she was not qualified for the Supreme Court, and others felt she is.

Judge Sotomayor has a very compelling personal story, and being Hispanic and being female and being nominated to the U.S. Supreme Court adds more credibility to that saga of living the American dream. As Americans, we should be proud she has been nominated. But the role of the Senate is to give the President advice and consent, and we are required to go beyond the personal side of the nominee.

After reviewing the information I have collected over and over again, I have concluded that I cannot support Judge Sotomayor's nomination. My reasoning is as follows:

First, lawyers nominated to the Supreme Court should be in a class by themselves.

My only experience as a Member of the Senate with this process is with the confirmations of Chief Justice Roberts and Justice Alito. Clearly, they are lawyers who are in a premier class. Lawyers with whom I spoke who know Judge Sotomayor do not put her in that category. Even those who say she should be confirmed do so in a less than enthusiastic way.

Second, I am a strong supporter of the second amendment, and I am concerned about the reasoning of Judge Sotomayor in cases where she has considered this issue.

In DC v. Heller, the Supreme Court left unanswered the issue of application of the second amendment to the States. This issue is likely to be decided by the Supreme Court in the next year or so. As a member of the Second Circuit, Judge Sotomayor ruled in the negative on this issue in the Maloney case without an explanation, simply citing an old Supreme Court case that is not really directly on point and is certainly outdated. This is too important an issue to give it no more than a cursory review.

Third, I am concerned about the apparent leaning of Judge Sotomayor to use foreign law to interpret U.S. laws and our Constitution.

In her April 28, 2009, speech to the Puerto Rican ACLU, Judge Sotomayor said that while foreign law should not be used as a precedent, she stated it should be ''considered.'' My question is, Why? Judge Sotomayor's answer in that same speech to that question was to align herself with Justice Ginsburg, who supports the use of foreign law and recently stated that ''foreign opinions . . . can add to the story of knowledge relevant to the solution of a question.'' Judge Sotomayor went on to say that unless American courts are more open to ideas in foreign cases, ''we are going to lose influence in the world.'' From an American jurisprudence standpoint, that line of thinking is certainly scary to me.

Lastly, the highly publicized Ricci case is very puzzling. A per curium opinion is unusual for such a complex and precedent-setting case. No analysis for the decision is very troubling to the lawyer in me.

In my conversation with Judge Sotomayor, she stated that the Second Circuit panel was simply following precedent and if the Supreme Court reversed the Second Circuit opinion, it would be establishing a new precedent. The Supreme Court, of course, did reverse the Second Circuit and clearly stated that no precedent was being followed by the lower court.

Judge Sotomayor did not adequately explain what precedent she was talking about and, in fact, did not answer this question when directly asked the question by Senator KYL at her confirmation hearing. Being less than forthcoming in every respect is very disturbing.

Mr. President, for all of the above reasons, I will cast a ''no'' vote on the confirmation of Judge Sotomayor next week.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I inquire, we are in morning business, am I correct?

The PRESIDING OFFICER. The Senator is correct, but we have 10-minute grants.

Mr. DODD. I appreciate that.

HEALTH CARE REFORM

Mr. DODD. Mr. President, what I have done every day over the last week or so is to take the floor to talk about health care, and I do so again this evening, with a note of some sadness. I have just been told there has now been a statement issued that there will be no markup of the Finance Committee bill next week on health care. I know Senator BAUCUS has worked hard at that. I know other members of that committee, in that effort, have been working to try to reach some understanding in all of that. I regret we will now leave here, I gather, next week, at the conclusion of the nomination process for Judge Sotomayor, for a month-long recess to our respective States, or whatever other obligations our colleagues may have. So I am saddened by that.

Let me try to find a good note in all of this—there are five congressional committees between the House of Representatives, the other body, and ourselves that have some jurisdiction over the health care debate. Three of those committees reside in the other body, the House of Representatives; that is, the Energy and Commerce Committee, the Education and Labor Committee, and the Ways and Means Committee. I am told that by tomorrow those three committees will have completed their jobs. They will have reported out a bill. There are two committees in the U.S. Senate with jurisdiction. Jurisdiction over some of the most major components of health care resides in the committee chaired by our colleague from Massachusetts, Senator KENNEDY, who is not with us, as most Americans know, because of his ongoing battle today with brain cancer. In his absence, I have been asked to act as the acting chair of that committee. Two weeks and 2 days ago, we completed our work in that committee. So the only committee remaining to do some work is the Finance Committee. So of the five committees, four, by the end of business tomorrow, will have completed their jobs.

That does not mean the work is completed. Obviously, a lot of work remains in melding these bills together to try to come up with answers to the thorny questions that remain on how we structure the health care system in our Nation to go from a sick care system, which it is today, to truly a