United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, WEDNESDAY, JANUARY 28, 2009 No. 17

Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray.

Creator God, whose breath is like the dawn of a new day, Your hands hold the paths of our steps and Your call gives direction to our lives. Direct our Senators during today's labors. Lead them to know Your power and to experience the joy of surrendering to Your purpose. Help them, Lord, to turn their ears and eyes and hearts toward You, as they approach the critical moments of decision. Remove the distractions from their hearts so that they will love You more dearly and make room in their lives for fellowship with You. As they follow Your lead, empower them to be steadfast, always abounding in Your love.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN 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, January 28, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following the remarks of the two leaders, the Senate will resume consideration of the Children's Health Insurance Program. The time until 11 a.m. will be for debate on the McConnell substitute amendment, with the time equally divided between the two leaders or their designees. I designate Chairman BAUCUS to handle the work on this side of the aisle. At 11 a.m., the Senate will proceed to vote in relation to the amendment. Additional rollcall votes are expected throughout the day as we continue to work through amendments to the bill.

Because of the Finance Committee and Appropriations Committee being heavily involved in the economic recovery bill yesterday, we perhaps did not get as much done as we normally would have. I expect today to be a day of work done on this underlying legislation. Amendments to the bill should be offered as soon as people feel it appropriate to offer them.

We would like to complete this legislation no later than tomorrow. With a little bit of good luck, we can finish it today, but it likely will be tomorrow. I am confident we will not have to file any procedural roadblocks on either side, and we can move forward on this legislation.

RECOGNITION OF THE MINORITY LEADER

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

STATE CHILDREN'S HEALTH INSURANCE PROGRAM

Mr. MCCONNELL. Madam President, let me say I share the view of the majority leader that we debate and vote on a number of amendments today. That certainly is our plan on this side of the aisle.

With regard to the SCHIP legislation, I do think we had a good day of debate yesterday, in spite of the interruptions the majority leader referred to in relation to the Finance Committee and the Appropriations Committee action on the stimulus package. I know Members of both parties were participating in that business most of the day. I particularly compliment Senators COBURN and BURR for the outstanding job they did managing the Republican time while our colleagues were occupied at that markup.

Republicans are committed to making sure every child has access to affordable health insurance. But there are some pretty important differences between Republicans and Democrats in how we get there.

Today the Senate will vote on our Republican alternative, the Kids First Act. To remind our colleagues, the Kids First Act refocuses SCHIP on its intended purpose, which is providing insurance to low-income, uninsured children.

The Kids First Act closes a number of loopholes and gimmicks that are being used to expand the definition of ''low income'' to families making up to $88,000 a year. I don't know anyone in Kentucky who would characterize $88,000 a year as low income.

Some States have used SCHIP to cover adults—remember, this is a program for children—even when thousands of eligible low-income children

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

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are still lacking coverage. It is worth repeating. Insurance for children is being used instead for adults. That is wrong, and the Kids First Act would ban such practices.

The CBO reports that our legislation will provide coverage to nearly 2 million low-income children who currently lack health insurance, and it does so in a fiscally responsible manner without raising taxes.

I know many of my Republican colleagues have other commonsense ideas to improve this legislation, and those will be offered. Republicans understand taxpayer resources are too scarce to be squandered away by waste, fraud or abuse. And Republicans are prepared to offer amendments to fix those problems and make the bill better.

For example, one provision of the bill allows a select few States to expand coverage to more than three times the Federal poverty level. Let me say that again. One of the provisions in the underlying bill allows a few States to expand coverage to more than three times the Federal poverty level. We don't think it is fair to provide special treatment to certain States, and we expect an amendment to address that situation.

The bill also provides Government health insurance to 2.4 million kids who already have health insurance, providing Government-paid insurance to kids who already have health insurance. Republicans believe those kids should be able to keep the coverage they have, and we will have amendments to let kids who already have health insurance keep that coverage, freeing more resources for kids who are actually in need.

Just as working families are trying to get the most out of every dollar, Republicans believe Government needs to do the same thing by rooting out waste, fraud, and abuse in all programs, including Medicaid and SCHIP.

These are a few of the ideas we will be discussing today and tomorrow as the Senate continues this very important debate.

I yield the floor.

RESERVATION OF LEADER TIME

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

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate shall resume consideration of H.R. 2, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

Pending:

McConnell amendment No. 40 (to amendment No. 39), in the nature of a substitute.

Grassley amendment No. 41 (to amendment No. 39), to strike the option to provide coverage to legal immigrants and increase the enrollment of uninsured low-income American children.

Mr. MCCONNELL. 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. BAUCUS. Madam 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.

AMENDMENT NO. 40

Mr. BAUCUS. Madam President, the amendment before us is the amendment offered by the Senator from Kentucky, Mr. MCCONNELL. It is a substitute amendment to the bill before us. The bill before us is an expansion of the Children's Health Insurance Program. It is very similar to the two bills that were taken up by Congress in 2007. Both were vetoed by President Bush. Both bodies had more than a majority. Both bodies passed the program. But the House did not get enough votes to override the President's veto.

The point is this is a very popular expansion of children's health insurance. The fact is we would add approximately 4 million more low-income, uninsured children who currently do not have health insurance.

Today about 6.7 million low-income kids have health insurance. Clearly, in this very difficult time of recession, parents are losing their jobs, their incomes are not what they once were. They have a hard time getting health insurance for their kids.

We took the same bill—actually, there were two bills last year, but they are very close—and mixed and matched a little bit, essentially the same bills that passed in 2007 which President Bush vetoed, and we are bringing up that same bill today, with one exception, and that is including perfectly legal alien citizens. They are not citizens but perfectly legal kids in America. Not illegals but legals.

The other side is opposing this bill because they do not want to include perfectly legal kids in the program. I think that is a big mistake because these children are here legally. Their parents pay taxes. If you are an 18-year-old, you could be drafted if we had a draft. These parents are in line to be full citizens after several years. They have green cards, but they will be full citizens. The perfectly legal folks in America receive food stamps. They are eligible for lots of things. They are in public school. It seems to me, therefore, they should be entitled to get health insurance, just like every other kid.

What this comes down to is either you are for low-income, uninsured kids getting health insurance or you are not. It is pretty simple. It is pretty basic. I believe, and I think most people on this side of the aisle believe, therefore, the bill should pass and the substitute offered by the Senator from Kentucky, which does not include these children, should not be adopted.

The other difference is the bill before us will add about 4 million more children who are currently uninsured to the Children's Health Insurance Program. The amendment before us does not add that many. It adds about 2 million. Again, the point is, you are for kids or you are not for kids. I think the answer to that is pretty clear. We do want to add 4 million more low-income, uninsured kids to the Children's Health Insurance Program.

We are going to hear from the other side: Gee, the underlying bill crowds out private coverage; that is, some parents will say: Gee, if the addition passes, I can no longer insure my child with a private health insurance plan but, rather, go off private health insurance and go into the public program.

The point is, that is a national phenomenon that occurs in a lot of ways and in a lot of places. It occurs in Medicaid. For example, some person might be on private health insurance but Medicaid might be better. And if you compare the two bills; that is, the underlying bill and the substitute being offered, essentially they are the same in that about two-thirds of the additional children covered under the underlying bill will go on the public program and about one-third will come out from private coverage in the same proportion that occurs in the substitute amendment—lower numbers but the same proportion.

It just seems to me that the main underlying point is we want low-income, uninsured kids to have health insurance. That is what we want here. In the next several months and in the next year, probably, we will be doing health insurance reform, and then we can make sure private health insurance is bolstered so people who are not insured—46 million, 47 million people in America uninsured—will be able to get insurance either through the public program or private coverage.

It is a bit difficult to explain here, but the main point is if every American has to have health insurance and the low-income people have to have subsidies to get health insurance, that is something the Congress should do. But at this point here today, let's reject the substitute amendment. Why? Because, as I said, a lot of kids who are here, perfectly legally, won't get health insurance, and that is not right. It also doesn't go nearly as far as it should because there are so many kids who don't have health insurance here today but who should get it.

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

Mr. GRASSLEY. Madam President, let me say to the Acting President pro tempore that it is a shame she has to be in the chair every time I give a speech, hearing the same things twice.

The ACTING PRESIDENT pro tempore. I am enjoying that, I say to the Senator.

Mr. GRASSLEY. I shouldn't have put the new Senator in that position, but I thought a little bit of humor around here doesn't hurt anything, does it?

I thank the Senator from Montana, the chairman of the committee, for his remarks. Obviously, from what I stated yesterday, I have a difference of opinion on that issue. I am not going to speak about that because I spoke about it yesterday.

Madam President, I would like to speak generally about the SCHIP bill, not about a specific amendment at this point, although I might mention some differences we have with the original bill.

I have been a Member of the Senate now for quite a few years. I have worked across the aisle on many initiatives in my time in the Senate. We have worked together—we meaning Democrats and Republicans, and in my case as an individual, the Senator from Iowa—and I am speaking about a close working relationship I have with the Senator from Montana, the chairman of the committee now. We have worked together on major tax, trade, and health care legislation over the last few years where we were able to set aside partisanship and work together to make good policy. I know what it means to make a compromise. I know what it means to keep that compromise.

In 2007, I worked with my friend Senator BAUCUS, as well as Senator HATCH, a Republican, and Senator ROCKEFELLER, a Democrat, to pass the reauthorization to the Children's Health Insurance Program. We twice passed a bill in the Senate with wide bipartisan margins. Was it a bill Senator HATCH and I as Republicans would have written? No. Was it a bill Senator BAUCUS and Senator ROCKEFELLER would have written if they were writing the bill all by themselves? No. The bill was a compromise, so everybody gives a little bit. We compromised to get a bipartisan vote, and we were successful in getting that bipartisan vote. We won a veto-proof majority in the Senate. We came just a few votes close of a veto-proof majority in the House. In fact, Senator BAUCUS and I worked with House Republicans to try to get a few more House Republicans to come around so we could have a bill on the books in 2007 or early 2008. Unfortunately, that didn't work out. Unfortunately, at the time, President Bush refused to sign the bill. I thought he was wrong to veto the bill. I still think he was wrong to veto it. I said so loudly and clearly.

I would like to refer to some comments I made 2 years ago to the Senate at that particular time. I don't have the exact date, but it was during the debate on the SCHIP bill at that particular time, and I would quote from that debate. This is the Senator from Iowa saying this 2 years ago:

> First, the President himself made a commitment to covering more children. I wish to refer to the Republican National Committee in New York City in 2004, and President Bush was very firm in making a point on covering children. Let me tell you what he said.

This is the quote I read from President Bush at that time, and he refers to a new term, meaning the term that would start in 2005.

> American children must also have a healthy start in life. In a new term, we will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for the government's health insurance programs. We will also not allow a lack of attention or information to stand between these children and health care that they need.

Now, that is the end of the quote from President Bush in 2004. And, Madam President, when I referred to the Republican National Committee in that quote, I think I made a mistake 2 years ago. I was referring to the convention and I said committee.

At that time during the debate in 2007, I went on to say:

> That was back in New York City, early September 2004. Three months later the President is reelected, with a mandate. It seems to me the President was very clear in his convictions then. Let me repeat his words because I think they are important. He said he would lead an aggressive effort to enroll millions of poor children in government health insurance programs.

Then I go on to speak for myself:

> President Bush, this is your friend CHUCK GRASSLEY helping you to keep the promise you made in New York City, and helping you keep your mandate that you had as a result of the last election. But somewhere the priorities of this administration seem to have shifted. The Congressional Budget Office reports that the proposal for SCHIP included in the President's fiscal year 2008 budget would result in the loss of coverage, not an increase of coverage as the administration had been advocating for in the year 2004; and that the loss of coverage would add up to 1.4 million children and pregnant women.

That is the end of my speech for that day to the Senate. But I want to say that later in the debate, I referred to this again. So I was trying to make very clear that I was speaking to the President of the United States. This is quoting me:

> I quoted the President making a promise at the Republican Convention in New York. I did that yesterday. I want to state again what the President said. You can't say it too many times. I hope at some time the President remembers what he said.

And this is the President from the Republican Convention:

> We will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for the government's health insurance program.

That is the end of the President's quote, but continuing to quote from myself.

> An extension of law, which is what is going to happen if the President vetoes this bill, will not carry out what the President said at the Republican Convention in New York in 2004. Faced with that, your answer today on this bill, Mr. President of the United States, should be yes. This bill gets the job done that you said in New York City you wanted to do. I hope the President's answer will be yes because if he doesn't veto this bill, then we will do those things he said he wanted to do. It will help more than 3 million low-income, uninsured children. About half of the new money is just to keep the program running. The rest of the new money goes to cover more low-income children.

Before I go on with my remarks, I want to say that I think I and a lot of other Republicans who voted for that SCHIP bill in 2007 were vindicated when we made the point that, at $5 billion the President didn't have enough money in his budget to cover kids currently enrolled in SCHIP because the next year, the President's budget for SCHIP was $20 billion. We kept saying to President Bush in 2007, you know, $5 billion isn't going to do it. But I think that by putting $20 billion in for FY 2008, the President was admitting that $5 billion wasn't enough.

Now, why do I go to the trouble of explaining to the Senators who are listening what I said 2 years ago? Because we had a Republican President.

I don't like the way this bill has worked out because the bill we have before us today departs so much from that bipartisan compromise on which so many of us worked so hard. So maybe people listening are saying: Well, CHUCK GRASSLEY, a Republican, we have a Democratic President, he is my President, but I am going to just be partisan. So I want the public to know that I am approaching this issue in a way where when I disagree with the policy—whether it is the policy of the Bush administration at that time, or the policy of the partisan bill we have before us now that I will speak out.

We have a President today who is going to sign this bill. Unfortunately, we are here with a bill that goes back on those compromises we worked so hard on 2 years ago. For reasons I still don't fully understand, the majority is bound and determined to set aside that hard work that led to that bipartisan agreement 2 years ago. They have decided that going back on critical compromises is more important than achieving the same bipartisan votes as we did in 2007. The Senate should now be considering our second bill, our final compromise of 2007.

I am disappointed because the State Children's Health Insurance Program is the product of a Republican-led Congress in 1997, signed into law by a Democratic President. This has been a very bipartisan issue for 11 years down the road. It is a targeted program designed to provide affordable health coverage for low-income children of working families. These families make too much to qualify for Medicaid but struggle to afford private insurance.

In 2007, Senator ROCKEFELLER made the point that, ''CHIP,'' the Children's Health Insurance Program, ''legislation has a history of bipartisanship. I am quite proud of it.'' That is what Senator ROCKEFELLER said. In 2009, however, the Democratic leadership, having increased their majority, has decided to abandon a number of good-faith agreements made between Members during the last Congress. In doing

so, the Democratic majority has embarked on a reckless course of action designed to alienate the very Republicans who stood up to President Bush when he vetoed the SCHIP bills and who still carry the scars from those fights. It is very disappointing, then, that the first health bill the new Democratic Congress sends to the new Democratic President, my President, is legislation that breaks from that bipartisan tradition.

I want my colleagues to understand that I am very reluctantly in a position of having to fight against this bill. After the bruising battles over SCHIP in 2007, and with the emergence of health reform as a priority for the 111th Congress, I wanted to avoid another fight over the Children's Health Insurance Program and direct all efforts to enacting a broadly bipartisan health reform bill, which I still think is a possibility. At least the meetings we are having lead me to say that at this point. Maybe 6 months from now I will be disappointed, but I hope not.

However, the Democratic majority was determined on this bill that they wanted a short-term ''win'' over a broader, larger effort, and therefore I was told SCHIP was going to be one of the first bills considered by the new Congress.

I was informed that rather than move forward with the second vetoed bill—a bill with changes that Speaker PELOSI called, and this quote is about that compromise of 2 years ago, which she said was ''a definite improvement on the [first] bill''—the Democratic leadership had decided to move ahead with the first vetoed bill instead of this compromise that Speaker PELOSI said was better than the first bill.

Even though I could have insisted on negotiating off the second bill which represented a number of improvements, as Speaker PELOSI said, and I believed it strengthened the bill, I agreed to try to work out a compromise somewhere between that first vetoed bill and the second vetoed bill of 2007. Unbelievably, under pressure from Democratic leadership, my willingness to work out a compromise that could have set us on a bipartisan pathway was met with a resounding: Thanks, but no thanks. No negotiations, no give and take, no compromises, no bipartisanship: Take it or leave it.

The Senate has abandoned moving forward with a bill that generated a great deal of Democratic praise just 2 years ago. The hard work and bipartisan cooperation that went into the children's health insurance bills in 2007 produced legislation that President Obama's new Chief of Staff, Rahm Emanuel, who was a Member of the House of Representatives at that time, said ''should have strong support from both Democrats and Republicans.'' That is from 2 years ago.

However, on a number of key issues, the other side does not even want to support the first children's health insurance bill of 2007.

The bill before the Senate now completely eliminates policies on crowdout of private insurance that were in both vetoed bills, which brings me to a question: What exactly was wrong with the crowdout policy of both of those vetoed bills? The Congressional Budget Office, in a 2007 report on crowdout, estimated that the Children's Health Insurance Program has a crowdout rate of ''between a quarter and a half of the increase in public coverage resulting from the Children's Health Insurance Program.''

The Congressional Budget Office goes on to elaborate that ''for every 100 children who enroll as a result of SCHIP, there is a corresponding reduction in private coverage of between 25 and 50 children.''

I would be very interested in learning the reasons those on that side of the aisle completely eliminated the crowdout provisions from both of the 2007 SCHIP bills. Certainly, it is not because Democrats have put forward a policy that addressed crowdout in a better or more efficient manner in the bill before the Senate now. Certainly, it is not because Democrats have a new analysis that crowdout is no longer occurring, as CBO says, especially in the expansion of public programs.

I hope Members of this body who supported the crowdout policy of 2007 and now are supporting its elimination will come to the floor and explain to me and other Members of this body why the Democratic majority is not concerned about the problem of replacing private coverage with public coverage.

In other words, if people have insurance today, and you are setting up a program that, even though it increases the number of people covered will not cover all the children eligible for public programs, why would you want to drive people out of private coverage into public coverage? That is what happens, according to the Congressional Budget Office. The Congressional Budget Office is a nonpartisan group of people who are experts in this area.

As I said yesterday, I believe it was, in a comment directed to something Senator DURBIN of Illinois said—and I am not denigrating what he said, I am supplementing what he said—he led us to believe the reason you want to have this policy is because there might be some people who have poor private coverage who would be better off in the public program. I am not saying that might not be true. But the Congressional Budget Office tells us you get most crowding out in upper middle-income people, more than you do in lower income people. In other words, maybe people who can afford it better and have higher incomes decide: Why should I pay out of my pocket when I can go on the public program?

I think it is wrong to throw aside something that we had in 2007 that was going to keep people in private coverage and encourage them to go where we do not have enough money to cover children who do not have anything.

Neither bill vetoed by President Bush in 2007 included a provision to allow States to be reimbursed at the Medicaid and SCHIP levels for legal immigrant children and pregnant women. I am not going to go into this issue in depth because I did that yesterday. But this issue does open a difficult and contentious immigration issue that does need to be brought up.

One of the reasons I was able to support the compromise of 2007 on the Children's Health Insurance Program was it did not contain the controversial provisions to direct Federal resources to the coverage of legal immigrants. I said yesterday how in some instances it could end up covering people who have come here illegally.

In the 1996 welfare reform bill, we required the sponsors of legal immigrants to sign an affidavit that they would provide for those immigrants for the first 5 years they were in the country. With this bill we are allowing sponsors to go back on that commitment. If you have a contractual relationship, it seems to me to be only morally right that the Federal Government would want to have that moral contract—not encourage ditching it. But this bill would allow that to happen. We are allowing sponsors to go back on that commitment they made to the taxpayers of this country.

Additionally, the $1.3 billion the bill provides for these immigrants who were promised they would be taken care of is money that could be far better spent on poor, uninsured American children. It is a little bit the same argument I just gave about crowdout.

If you have people on private insurance, then save the public money for people who are currently eligible for public programs, but who are not insured. Use the $1.3 billion for those people.

In 2007, during the debate, the majority leader, Mr. REID, said this about the Children's Health Insurance Program. It was ''a very difficult but rewarding process for me. It indicates to me that there is an ability of this Congress to work on a bipartisan, bicameral basis.''

You have an election in between, but it seems to me, kind of, comity would dictate if that was a good statement to make in 2007, it would hold true for 2009 as well. This should have been an easy and quick bill to pick up and pass this year. Our bipartisan coalition fought side by side to get the Children's Health Insurance Program done in 2007. Picking up that baton and carrying it across the finish line should have been a straightforward exercise. For somebody like me in the Republican Party who went against his own caucus to get a bipartisan agreement, to stand against my own President and work hard in the House of Representatives to get a few more Republican votes, it kind of leaves us dangling out there. Without a show of appreciation, how can you work in a bipartisan way?

Instead, what are we headed toward? A process that will end up with a bill

that many Republicans, like this Senator, who have been strong supporters of the Children's Health Insurance Program are no longer comfortable supporting.

In 2007, the Children's Health Insurance Program received high praise from the other side. I would like to give a quote, ''a very difficult but rewarding process,'' and one that indicated—showed the ability of Congress, quoting again ''to work on a bipartisan, bicameral basis.''

If the Senator from Montana—I am going to smile at you. That is your quote from 2 years ago.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. GRASSLEY. I have three sentences, if I can have unanimous consent for those?

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

Mr. GRASSLEY. This is a very unfortunate beginning for the 111th Congress. I regret the Democratic leadership has so quickly abandoned a bipartisan process. It does not bode well for cooperative work in the coming months.

I yield the floor.

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

Mr. BAUCUS. I ask unanimous consent that at 10:55 a.m. the Senate resume consideration of the Grassley amendment, No. 41, and proceed to a vote on the amendment with no intervening action or debate; further, that no amendment be in order to the Grassley amendment prior to the vote; that upon disposition of the Grassley amendment, the Senate resume consideration of the McConnell amendment under the previous order.

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

Mr. BAUCUS. Madam President, I also want to inform my colleagues that vote at 10:55 is expected to be a voice vote.

Mr. GRASSLEY. I have yielded the floor.

Mr. BAUCUS. How long does the Senator wish to speak?

Mr. KYL. Madam President, if I can take 4 minutes, that will be fine.

Mr. BAUCUS. I yield 5 minutes to the Senator from Arizona.

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

AMENDMENT NO. 40

Mr. KYL. Madam President, yesterday I spoke to this issue and detailed the reasons the underlying legislation is not a good bill and why the substitute that is being offered by Senator MCCONNELL will be a much better approach to this issue. I want to reiterate one of these points because of a question a reporter asked me out in the hall. We talked about the massive number of people, 2.4 million people, who will leave their private insurance coverage in order to participate in this Government-run program. It is called the crowdout effect.

The reporter said: Does it appear to you that this is just one more step toward Government-run health care for Americans?

I said: Well, you can certainly conclude that. The reason I said it was because there were efforts last year to try to fix this problem. Everybody acknowledges there are almost 2.4 million people who will leave private health insurance coverage because, obviously, the businesses that are paying for that today would not have to pay for it if their employees go to this Government-run program. It, obviously, makes sense for them, therefore, to drop the coverage.

The reason I said what I did is because there is a way to handle this. We tried to deal with it last year. When the legislation was finally—the final version was written, it was written by the chairman of the committee and by other Democratic leaders in the House and in the Senate.

It was approved by both Houses. It included the language that dealt with this crowdout effect. Now, it was not very meaningful language, from my perspective, but at least it was a recognition of the problem. Surprisingly, that language was dropped from this bill, and I never have been able to figure out why.

So I offered an amendment in the committee to reinsert the same language that the chairman and other Democratic leaders had put together to deal with this problem. On essentially a party-line vote, my amendment was defeated, so the problem remains. And it is the one of many problems in the underlying bill.

The point of the Kids First Act, which is Senator MCCONNELL's alternative, is that it is targeted and it is a responsible reauthorization to preserve health care coverage for millions of low-income children. That is what the program is all about. That is what we should be doing.

Unlike the underlying bill, the McConnell amendment adds 3.1 million new children to SCHIP. It minimizes the reduction in private coverage, as I said before, by targeting SCHIP funds to low-income children and not high-income families who have access to private coverage. And importantly, it is offset without new tax increases or a budget gimmick as is the underlying bill.

So I think my colleagues and I have two choices here, either a budget buster that does not protect SCHIP coverage for low-income children, represents an open-ended burden on taxpayers, and takes a significant step toward Government-run health care, or a fiscally responsible SCHIP reauthorization that preserves coverage for low-income children and is fully offset without a tax increase, and minimizes the effect on employer-sponsored health coverage.

The answer is clear, the Kids First Act is the right solution, and I urge my colleagues to vote yes on the McConnell amendment.

The PRESIDING OFFICER (Mrs. HAGAN.) The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, the real question is, do we want more low-income uninsured children to have health insurance? That is the basic question. I am sure the answer to that question is yes. Most Americans, certainly parents of low-income kids and low-income parents, wish to have their children covered.

Next question: How do we do it? The Children's Health Insurance Program is immensely popular. It was enacted, I think, in 1997. It was set up as a block grant program. States had the option whether they wanted to participate. And immediately, in a very short period of time, all States decided, yes, they wanted to participate in the Children's Health Insurance Program, because it so helps their kids get health insurance.

Now, many people have private health insurance. That is good. The question is, what about lower income people, not Medicaid levels, but working poor who have private health insurance. What should they do? And this legislation gives people the option, gives States the option that a person can continue his private health insurance. If he or she wants to, a person currently on private health insurance who has a couple three kids and who qualifies for the Children's Health Insurance Program, because the parents are working poor, has the option to keep the private health insurance or to put the children in the Children's Health Insurance Program.

Now, this question always arises, that is, when there is a public program, a health program, there is always going to be a question for those who have private coverage, should they stay in their private plan or should they move to the public plan?

About one-third of the new children who have health insurance under the underlying bill will come from the private sector; two-thirds have no insurance whatsoever. The real answer to the dilemma is to make sure that the people in our country have good private health insurance at premiums they can afford, benefits that make sense. The Children's Health Insurance Program has good benefits. So, clearly, a mother whose income is quite low, not quite as low as Medicaid levels, but quite low, will probably want her child to enroll in the Children's Health Insurance Program.

We have to bolster private health insurance in this country. There are 47 million Americans who do not have health insurance. That is unconscionable. About 25 million Americans are underinsured; they have got health insurance, but it is not very good.

So the answer to this question is, how do we insure more kids but in a

way that private health insurance is also a viable option for low-income families. How do you do that?

We are going to take up health care reform this year in this Congress. It is so important. It should be a result where all Americans have health insurance. It also means we have to figure out ways to get the cost down, because health insurance is so costly, and health care is so costly.

Unfortunately, today, insurance in the individual markets is very expensive. The benefits are not that great and the copays are pretty high. It is not a good choice for low-income people. That is the individual market, even small group markets in many cases. So the goal here of national health insurance reform, through all kinds of mechanisms, of health care delivery, and pay for performance, et cetera, is to make sure that private health insurance is a viable option for all Americans, more of an option than it is today.

That means insurance reform, eliminating preexisting conditions as a means to deny coverage. The fancy term ''guarantee issues'' means that when someone applies for health insurance, that health insurance provides there is no discrimination on the basis of health care or age or whatnot.

That is the goal we are all striving for. And, fortunately, it is a goal that almost all of our colleagues agree with. I very much hope—it is imperative that this year, this Congress move aggressively for national health insurance reform, because that will then tend to eliminate this question of crowdout.

But, more importantly, as we worry about crowdout, I do not think it is that much of a worry, frankly. We should keep our eye on the ball which is how do we get more low-income kids insured. That is what the underlying bill does.

Madam President, I suggest the absence of a quorum and ask unanimous consent that the time of the quorum be charged to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. McCONNELL. Madam President, I wanted to make a few observations on the pending amendment, the McConnell amendment, before the vote. What we are trying to do here in this amendment is to refocus SCHIP toward low-income children. This amendment would close loopholes that allow States to use SCHIP funds to cover both adults and children in higher income families.

What has happened here is some States have drifted off in the direction that was not the original intent of the measure, which was supported on an overwhelming bipartisan basis, and written by both Republicans and Democrats in the 1990s.

So the goal of the Kids First amendment, upon which we are about to vote, is to refocus the program on low-income children, and to take the funds that are being diverted to high-income families and put them back in to cover low-income children, and it probably would cover up to 2 million additional low-income children.

So if you are in favor of putting kids first and focusing the SCHIP program as it was originally intended, I would recommend strongly that you support the amendment upon which we are going to vote here shortly.

I yield the floor.

AMENDMENT NO. 41

The PRESIDING OFFICER. Under the previous order, the Senate resumes consideration of amendment No. 41.

The question is on agreeing to the amendment.

The amendment (No. 41) was rejected.

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

Mr. MENENDEZ. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 40

Mr. BAUCUS. Madam President, while we are waiting for the vote, which occurs in a few minutes, I will make a couple of points here.

Mr. McCONNELL. Would the Senator from Montana yield?

Mr. BAUCUS. I will yield.

Mr. McCONNELL. Madam President, I am reminded that I have not requested the yeas and nays yet on my amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, very briefly in response to the Senator from Kentucky, the underlying legislation adds 4 million more children to the Children's Health Insurance Program for a total of about 10 million. I think that is a good goal. On the other hand, the substitute amendment offered by the Senator from Kentucky does not go near that far. It is about 2 million fewer children. I think we want to add more kids to the Children's Health Insurance Program.

Second, he claims his substitute focuses more on low-income kids first. I might say that the underlying bill, the bill offered by myself and others, focuses on low-income first. How does it do so? There is a bonus to States to seek out low-incomes first.

Second, the bill phases out coverage of childless adults. That has been an issue; that is, should adults, who are not children, be covered under the Children's Health Insurance Program? That is an issue because this is a block grant program, and States have the option to cover whom they want to. Some States have covered adults. Actually only one or two have. And we are saying, no, no more of that. So we are phasing out the ability of any State to cover an adult who does not have children.

Parents or pregnant women and kids are another issue. But childless adults are being phased out. So we are focusing more on low-income kids first. I might say too that there is a lower match rate for those States at their own option that want to go to a higher level. Some States want to go to a higher level. That is their choice under the Children's Health Insurance Program, because it is a State option. That is a choice those States can take.

But if they do so, the match is a lower rate than it otherwise might be.

Again, I am trying to make sure that low-income kids are helped first.

And, finally, under the underlying legislation, 91 percent of children covered are at a level of 200 percent of poverty or lower; 91 percent, 200 percent or lower. So this legislation clearly is focused on the working poor.

The PRESIDING OFFICER. All time has expired. The question occurs on Amendment No. 40 offered by the Senator from Kentucky, Mr. McCONNELL.

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 Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

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

The result was announced—yeas 32, nays 65, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—32

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Risch
Brownback	Graham	Roberts
Bunning	Gregg	Sessions
Burr	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker
Crapo	Martinez	

NAYS—65

Akaka	Feingold	McCaskill
Baucus	Feinstein	Menendez
Bayh	Gillibrand	Merkley
Begich	Grassley	Mikulski
Bennet	Hagan	Murkowski
Bingaman	Harkin	Murray
Bond	Hatch	Nelson (FL)
Boxer	Inouye	Nelson (NE)
Brown	Johnson	Pryor
Burris	Kaufman	Reed
Byrd	Kerry	Reid
Cantwell	Klobuchar	Rockefeller
Cardin	Kohl	Sanders
Carper	Landrieu	Schumer
Casey	Lautenberg	Shaheen
Collins	Leahy	Snowe
Conrad	Levin	Specter
Dodd	Lieberman	Stabenow
Dorgan	Lincoln	Tester
Durbin	Lugar	

Udall (CO)	Warner	Whitehouse
Udall (NM)	Webb	Wyden

NOT VOTING—2

Chambliss	Kennedy

The amendment (No. 40) was rejected.

Mrs. MURRAY. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID. Madam President, I note 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. 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. REID. Madam President, it is my understanding that the Senator from Florida, Senator MARTINEZ, is going to offer an amendment. The amendment, as I understand it, deals with the Mexico City issue.

I ask unanimous consent that Senator MARTINEZ have 5 minutes to speak, that he be followed by Senator BROWNBACK for 5 minutes; Senator BOXER for 5 minutes; Senator DURBIN, 5 minutes; Senator MCCAIN, 5 minutes; and following that, that Senator MENENDEZ be allowed to speak for up to 15 minutes. He is just going to speak on the bill. Then, I would arrange—general debate for Senator MENENDEZ.

I will work with Senator MCCONNELL to follow up with a time for a vote. We would like to do it before 12:30, but I will work with Senator MCCONNELL on that. Also, there would be no amendments in order to the amendment offered by Senator MARTINEZ.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 65

Mr. MARTINEZ. Madam President, I call up amendment No. 65 and send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MARTINEZ], for himself, Mr. VITTER, Mr. WICKER, Mr. BUNNING, Mr. ENZI, Mr. COBURN, Mr. JOHANNS, Mr. BROWNBACK, Mr. INHOFE, and Mr. CHAMBLISS, proposes an amendment numbered 65.

Mr. MARTINEZ. 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 restore the prohibition on funding of nongovernmental organizations that promote abortion as a method of birth control (the ''Mexico City Policy''))

At the appropriate place, insert the following:

SEC. ___. RESTORATION OF PROHIBITION ON FUNDING OF NONGOVERNMENTAL ORGANIZATIONS THAT PROMOTE ABORTION AS A METHOD OF BIRTH CONTROL (''MEXICO CITY POLICY'').

Notwithstanding any other provision of law, regulation, or policy, including the memorandum issued by the President on January 23, 2009, to the Administrator of the United States Agency for International Development, titled ''Mexico City Policy and Assistance for Voluntary Family Planning,'' no funds authorized under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq) for population planning activities or other population or family planning assistance may be made available for any private, nongovernmental, or multilateral organization that performs or actively promotes abortion as a method of birth control.

Mr. MARTINEZ. Madam President, while we are debating SCHIP and considering the best ways to promote healthy children in our country, we are going to look at many amendments covering a wide range of topics. Whether we support extending this program or not, everyone wants children to have the best health care available. Into this broad-ranging debate, I have also introduced an amendment to reinstate the Mexico City policy—a policy that prohibits U.S. foreign assistance from going to groups in foreign countries that support or perform abortions.

The fact is, we often talk about promoting a culture of life. We talk during political campaigns about how we wish we had fewer abortions and how we wish to promote other alternatives such as adoption, and, in fact, that we want abortions to be rare. However, actions do matter, and last Friday President Obama changed the tone of this conversation by approving the use of taxpayer dollars to fund international organizations responsible for performing and promoting abortions in every corner of the world.

Today, I am proposing an amendment to H.R. 2, the SCHIP bill, that would return this policy to its original intent, which is to restrict the use of taxpayer money to family planning organizations that are known to perform and promote abortion. This policy, known as the Mexico City policy, was first signed into Executive order by President Ronald Reagan in 1984. Over the years, the policy has been wrongly attacked and falsely characterized as a restriction on foreign aid for family planning. This policy is not about reducing aid, but it is instead about ensuring that family planning funds are given to organizations dedicated to reducing abortions, instead of promoting them.

Reversing this policy means there is no longer a clear line between funding organizations that aim to reduce abortions and those that promote abortions as a means of contraception. If not reversed, the funding would enable organizations to perform and promote abortions in regions such as Latin America, countries in the Middle East, and Africa, where the sanctity of life is not only respected but, in many instances, is the law of the land and, in fact, where strong religious convictions make this practice abhorrent.

The United States is a generous country. We give to countries around the world for many reasons and for many purposes. At the same time, we also want to be on the positive side of respecting the culture of so many of the countries that would be impacted by this dramatic change in what has been the U.S. policy abroad.

So I urge my colleagues to support this amendment restoring the Mexico City policy first enacted by President Ronald Reagan and then reenacted again by our last President. It is necessary—if we want to continue fostering a culture of life where every life is sacred, every child is celebrated, and life at all stages is given the dignity it deserves—that we support this amendment in promoting life, in standing for the things we say we believe in during campaigns, which is promoting a culture of life and looking for abortions to be rare and to be the last option and to not be something that comes into the picture as a result of a desire to use it as a family planning tool and not with the understanding that it is disrespecting the very sanctity of life we all believe ought to be observed from the moment of conception until the end of life.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CASEY). The Senator from California.

Mrs. BOXER. Mr. President, is Senator BROWNBACK next?

The PRESIDING OFFICER. Yes.

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank my colleague from Florida for raising this issue. This has come up recently as President Obama has changed the Mexico City policy so that the United States can fund abortions and groups that promote abortions overseas. This, of course, was not the policy of the United States in the last administration for the last 8 years. It was prior to that in the Clinton administration. And prior to that in the Reagan and Bush years, it was not the policy. This has been going back and forth for some time.

I think it is pretty clear as far as the U.S. public that they do not like the idea of us funding abortions overseas. Some people may tolerate it here at home and say, OK, that is something I will just live with, but they do not like the idea of our taxpayers' dollars going to fund abortions overseas. And at a time when we are staring at $10 trillion in debt going to $12 trillion, with a stimulus package of lots of different items, including some that do not seem particularly stimulative, this does not make any sense to people. Then you go overseas, and to a lot of places, it does not make any sense, either, as Senator MARTINEZ mentioned, that in Latin American countries, African countries that are very strongly pro-life, in many cases, we are supporting policies or groups or institutions that are promoting abortion.

What is going on with the United States? I thought you guys stood for life and for the dignity of the individual, and then the United States is funding this? This has been back and forth, a long seesaw battle, within our overall discussion here. I simply point out that this does not help us in foreign policy. This certainly does not help the budget deficit or the debt. This certainly does not stimulate the economy. There is no major policy reason to do this.

Some people will argue that we should be supporting this policy and that this is something we ought to do to help people overseas. I think most people overseas would much rather have us put this money in AIDS prevention work, in malaria work, in working on neglected diseases that affect so many people overseas that have a broad basis of support in the United States and there, rather than this policy, which is such a controversial, negative policy that is being promoted and pushed and seen that way in so many places around the world. This does not help us out at all.

Then we look at some countries such as China where situations arise of forced abortions and forced sterilizations continuing to come out in the media. We have family planning support there, in places where forced abortions and forced sterilizations still take place. Our money is associated with some of these efforts in different places around the world. People do not like that policy. No matter how prochoice they are, they do not want us associated with that, and they do not see any reason for us to be involved in it.

One can look at different things where one is on the choice or life spectrum. I am pro-life. I am strongly pro-life. I believe life has dignity from the very beginning to the very end and that it should be protected. Then we add this into the mix, using U.S. taxpayers' dollars, dollars that we approve here, dollars from all the United States to promote something that a whole bunch of people in the United States completely disagree with on a whole variety of grounds.

I ask my colleagues to back up for a second and say: Aren't there better places for us to put this money if we are looking to do something that is life-affirming and helping people who are in difficulty? There are much better places we can certainly agree on, and I listed several of those on which we could agree and we could work together in this supposedly postpartisan period we are in, that we could work together on these issues. I pushed a number of them, and I can tell you for sure we have a need on neglected diseases in Third World countries and that a little bit of interest and focus on our part yields a whole bunch of saved lives. People dealing with malaria has been a big one. But we need to go on to diseases such as elephantiasis, sleeping sickness—there is a series of them that would build up a lot of good will by the United States overseas, that would increase our standing in places around the world, that there would be no controversy whatsoever associated with but instead would be wholeheartedly embraced both here and overseas.

For these reasons, I do not think it is wise for us to reengage with groups that promote abortion overseas. I ask my colleagues not to do that but to support the Martinez amendment and say to themselves: Let's not do this. Let's do this better, let's do this together. Let's support the Martinez amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I say to Senators, if you want to save the lives of women around the world and you want to cut down on abortions, vote against the Martinez-Brownback amendment.

I say to my friend who is asking for bipartisanship, this vote will be bipartisan. We will have more than 60 people in this Senate, I believe, who will vote against this amendment and affirm the action of our new President, President Barack Obama, who very wisely understands that with a stroke of a pen, undoing what the Bush-Cheney administration did will indeed save the lives of women.

I could talk quite a bit about generalities and the thousands of women who are waiting to have reproductive health care who cannot get it because of this Mexico City gag rule which says to nongovernmental organizations who work overseas: You cannot get U.S. funding if you even speak about the possibility that abortion is an option; all of your funds will be cut off. So many of these groups gave up the funds so as not to be gagged.

If this was done in this country, it would be unconstitutional on its face because what the gag rule says to international nongovernmental organizations is: If you do not do what the Bush administration wants, you cannot use your own money to provide health care which could include, for example, counseling when there is an unintended pregnancy.

Let me tell you the story of a 13-year-old girl named Min Min because I think it is important to put a face on this issue. She is from Nepal. She was raped by a male relative. A relative helped her get an abortion, and Min Min was sentenced to 20 years in jail while the male relative walked. In Nepal at that time, abortion was illegal, even in the cases of rape or incest. Because of the gag rule, organizations in Nepal that wanted to help girls like Min Min and change the laws and get children out of jail were told: You will lose all your U.S. funding if you even talk about it. So you know what one particular organization did? They gave up the money and they struggled, and then they did not have funding for family planning or for reproductive health care.

That is the kind of cruel policy that is called the Mexico City gag rule. That is the kind of cruel policy that my colleagues, Senator MARTINEZ and Senator BROWNBACK, want to put back into place. And they do it in the name of life? How is that being done in the name of life when you put a 13-year-old child in prison because she was raped, the relative who did this to her walks, and an organization that is seeking justice is shut out of U.S. support? That is not life-affirming.

I applaud our President for doing this. Again, a lot of these issues are difficult. This was a stroke of a pen. This is a reflection of a bipartisan majority in this country who thinks that it is cruel and wrong to tell these organizations they have to dance to the tune of politics, the politics of America, before they get any funding from us to prevent abortion, to promote family planning, to help a little child such as Min Min get out of jail.

I am proud today to stand in front of you, Mr. President, and say that with President Obama, this is just the start of the changes he will bring that will help women, that will help families, that will help children. I hope we will defeat this amendment with an overwhelming vote, and I predict we will.

I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. Mr. President, I respect very much Senator MARTINEZ and Senator BROWNBACK. Their views on the issue of abortion, I am sure, are a matter of conscience. They come to us to raise this issue which has been debated so many times in the Senate.

I say at this point in time that many of us who oppose abortion also believe that a woman should be able to make that choice with her family, with her doctor, with her conscience, and, of course, we believe in the first instance that family planning avoids unintended pregnancies. Unintended pregnancies lead to abortion. So reducing the number of unintended pregnancies is going to give women a chance to control their own lives and to reduce the likelihood of abortion.

It is the law of the United States of America, and it has been for many years, in a provision added in 1973 by Senator Jesse Helms explicitly banning the use of American taxpayer funds for overseas abortion. Unequivocally, that is the law. Regardless of the Mexico City policy, signed by President Obama or the situation before that, that is the law. Not one penny of taxpayers' dollars can be used to fund abortions overseas.

The issue here is whether an organization which also counsels women that they have an option for abortion is going to be denied these funds by this policy. Senator MARTINEZ's amendment would deny them the funds to even offer family planning if they counsel a woman that abortion is an option. As Senator BOXER said, in the United States that is unacceptable.

You have to give doctors at least the opportunity, even if they do not perform an abortion, to tell a woman what her legal rights are. But that is what is at the core of this issue.

Mrs. BOXER. Will the Senator yield for a moment?

Mr. DURBIN. Let me make two or three other points and then I will.

There are several points I would like to make about the importance of President Obama's decision.

First, when we provide family planning funds to organizations overseas that may counsel abortion but not spend a single U.S. dollar on abortions, when we provide that money, we literally reduce the number of abortions worldwide. A report by Guttmacher Institute and the U.N. Population Fund estimated that providing family planning services to the 201 million women in developing countries whose needs are unmet would prevent 52 million unintended pregnancies by family planning and 22 million abortions. So when you reduce the family planning, there are more unintended pregnancies and more abortions.

Secondly, an estimated 536,000 women, mostly in developing countries, die from pregnancy-related causes. By giving a woman family planning counseling, the pill or something similar, they will have access to contraception and pregnancy-related deaths will drop by 25 to 35 percent of women who would give birth.

Finally, the repeal would save the lives of children in many developing countries. Many of these women have successive pregnancies that they cannot control, and the children, sadly, are weaker and weaker because the mothers cannot restore their bodily strength before they have another child. That is the reality of this situation.

I will say, as I have traveled around the world with people such as Senator BROWNBACK, the most important single question one can ask in a developing country is, How do you treat your women? We should treat the women of the world with respect. We should give them access to sound family planning. Let them plan their lives and plan their families. There will be fewer abortions, fewer maternal deaths, and fewer children dying as a result.

Mrs. BOXER. Well, first, I thank the Senator so much for adding those numbers. We are talking about saving women's lives and we are talking about stopping thousands of abortions. That is why it is so inexplicable to me that this amendment is coming from the other side.

I wanted to ask a couple of questions of my friend. Senator BROWNBACK asked for us to find common ground, and I want to find common ground, and I said we are going to find common ground with this vote. But further, wouldn't my friend agree that family planning is the common ground between those of us who support a woman's right to choose and those who oppose it? Isn't family planning finding common ground?

Mr. DURBIN. I would say, through the Chair, that I am not one who celebrates the incidence of abortion in this country or anywhere. I wish to see far fewer abortions. But let's be honest. How do you reach that goal? You reach that goal by educating women and giving them opportunities to avoid unintended pregnancies. I think that is why this amendment is inconsistent with the sponsor's goal. If you want fewer abortions, give women an option, let them control their bodies and their lives, and let them make family decisions that are right for them, instead of being at the mercy of a situation they cannot control.

Mrs. BOXER. I have one last question to ask through the Chair.

The PRESIDING OFFICER. Time has expired.

Mrs. BOXER. I ask unanimous consent for 1 more minute, and to give Senator MCCAIN an extra minute if he wishes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I also wanted to make the point that this denial of funds to these nongovernmental organizations—which the Senator is absolutely right to stress—is far-reaching. Even if they tell a woman what her options are, and as long as they know these options are legal, it should be fine and they shouldn't be punished. But does my friend know, because I wasn't clear until recently, that this punishment of this gag rule goes beyond this?

In the case of Nepal, where a nongovernmental group wanted to simply change the law so that abortion could be legal if a child was raped, they were denied the funds because they wanted to go in front of their government and say, sir and madam, let us have compassion for those like this 13-year-old child. She is in jail for 20 years; she was raped. So is my friend aware that is how far this global gag rule went?

Mr. DURBIN. I am glad the Senator from California made that point clear.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I wish to address the issue of the legislation before us, the SCHIP reauthorization.

We all know that the Children's Health Insurance Program is a vital safety net program the Congress created to offer coverage to one of our Nation's most vulnerable populations, and that is low-income children. It is an objective that all of us stand behind. Unfortunately, the measure before us is an attempt to take a good program, expand it far beyond its original scope, and to fund it by imposing higher tobacco taxes. Remarkable. That is not the right approach.

When it was created, it was done to address the needs of millions of children who went without health coverage. I was pleased to join my colleagues in supporting the establishment of the CHIP program. And thanks to this program, many low-income children have been able to obtain health care coverage they otherwise wouldn't have had. Today, obviously, this bill would drastically expand coverage, and as has been discussed several times on the floor, it contains loopholes, for example, that would allow one State—the State of New York—to go ahead with their planned expansion and cover children of families earning up to $88,000 a year. That will have a crowdout effect, where 2.4 million of the 6.5 million newly enrolled individuals would have had private coverage without this legislation.

Some of us who look at this may view it as another effort to eliminate, over time, private insurance in America, and I am concerned about that. I am also concerned about the drastic expansion. We should take the word ''children'' out of it, since it is now being expanded to many other citizens than children. But what I find unacceptable here is that we are basically going to count on Americans to use tobacco products—smoking—in order to fund it.

Is there anyone in this body who doesn't know that smoking and the use of tobacco products is harmful and a danger to the health of these same children we are insuring? Is there anyone who isn't concerned about what seems to be a rise in the use of tobacco amongst young Americans? One of the reasons for that is because the deal that was negotiated between the lawyers and the attorneys general of this country was that these supposed funds from tobacco taxes were supposed to go to advertising for antitobacco usage and for treatment of illnesses associated with the use of tobacco, but it has now become another source of revenue for every State in America.

Yesterday, during a Health and Education Committee roundtable discussion, the topic of preventive measures was discussed at length, and what did we talk about? We talked about the ill effects of the use of tobacco, particularly smoking and secondhand tobacco, and yet here we are funding an attempt to improve the health of young Americans with billions and billions of dollars of taxes on tobacco products. Couldn't we have found somewhere in our budget programs that could have been reduced or even eliminated to fund the SCHIP program? Apparently not. Apparently not.

So we now are at a point where the States no longer use the money in the form of taxes on tobacco products that was supposed to go to discourage the use of tobacco. We are now going to depend on a tax on tobacco products for funding of insurance for children and others, thereby, at least in some ways, encouraging the use of tobacco. So I am very much opposed to this legislation.

I am proud of what we did initially. But it seems to me that using the ill-

gotten taxes from the use of tobacco—smoking in particular—in order to fund any program is not an appropriate legislative remedy. So I believe the bill differs drastically from the original intention of SCHIP, and I disagree strongly with its funding mechanism of increased tobacco taxes.

I support the ideas contained in the alternative bill, which would keep the Children's Health Insurance Program focused on low-income children, and would have done so without dramatic increases in Federal spending or higher taxes.

Mr. President, I appreciate the courtesy of my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, today, this Congress is facing a fundamental test of our values: whether to reauthorize the State Children's Health Insurance Program and expand it to cover millions of children who would otherwise be left uninsured. We must ask ourselves: Is this good for our Nation's children? The answer is, clearly, yes. And I say this as a father. There is nothing more important to parents than the health of their children, and there is nothing more important to helping them grow up to achieve their potential and contribute all they can to our society.

It is no secret what a major financial burden health care can be. We are reminded of the costs every time we go to the doctor or fill a prescription at the pharmacy. There are parents who work every day in some of the toughest jobs in our country, but their jobs don't offer health insurance and their paychecks don't cover the cost of private coverage.

They are not the only ones whose health is at serious risk because of this lack of insurance. It is also a major risk for children. Parents stay up at night worrying about whether the hard cough they hear coming from their daughter's room means she has asthma; hoping that the pain in their son's stomach doesn't mean he is going to need surgery; wondering how they are going to pay for a routine checkup; and just praying—praying—that everyone stays healthy until they can afford to get the health care they need.

Here is one story: A boy named Jonathan took a trip to the New Jersey shore with his family. His head started to throb on the ride from his home in New Hampshire, and finally the pain became unbearable. I want to read what Jonathan wrote about his experience. He wrote:

> The pain was so bad; I had to crawl on the ground. My mom drove me to the medical center. I remember my mom calling my dad and asking the question, Do we still have medical insurance? I remember being really scared. The doctor explained that I had an arachnoid cyst about the size of an ice cube growing on the left side of my brain. My mother started to cry. There was another problem: Our insurance coverage had ended. Going to the hospital and having all of the CAT scans and MRI testing was super expensive. Suddenly, insurance was a huge issue. Friends told us about a program called New Hampshire Healthy Kids. My parents had to act quickly and register my brothers and me for the program. The people at NHHK were really helpful. I was able to get the medical attention I needed.

Thank goodness Jonathan was okay. But stories such as this are why the Federal Government and the States teamed up to create the State Children's Health Insurance Program. It has been a great success across the country, covering almost 7 million American children. In New Jersey, it covers almost 130,000 of those American children. This year, Congress has an opportunity to make children's health even more inclusive, to pass a bill that will continue to provide health care to the almost 7 million children already enrolled, and expand the program to include 4 million children across America, and that includes another 100,000 in my home State of New Jersey.

As we are considering whether to reauthorize and expand children's health, we all have to ask ourselves two questions: One, would we have wanted Jonathan's story to have turned out differently? Absolutely not. And two, are we going to sit back as millions of other stories such as Jonathan's don't end up as happily? The decisions we make today have very clear implications for hardworking families across the country. The difference here between no and yes can mean, for millions of children, the difference between helplessness, suffering, and pain versus opportunity, health, and a better quality of life. That is how high the stakes are.

Now, some in this Chamber may question whether we can afford health care for our children. Let us look at the facts. First, this legislation won't cost us a dime because it is completely paid for. Second, making sure kids can get regular checkups and focus on preventive care has the potential to reduce emergency room visits and save costs down the line.

We also need to be very clear that public health insurance does not mean free health insurance. Many families across America and in New Jersey are responsible for copays and have to pay a premium every month. They are part of supporting their children's health care coverage.

But all that aside, let us look at the bigger budgetary picture, at where our priorities have been for the last several years. The war in Iraq is currently costing us $5,000 every second. With what is spent on the war in Iraq in 40 days, we could insure over 10 million children in America for 1 year. In fact, with the amount that has been spent on the war, we could provide 2 years of health care coverage for all of the 47 million Americans who don't have health insurance, who play Russian roulette every day with their lives and their wallets. And even after providing all that health care for every American who doesn't have it, we would still have $30 billion remaining.

If we are willing to look at our priorities and choose our children—as we often say, and I have heard many of my colleagues speak on the floor about how our children are our most precious resource, and they are, but they are also our most vulnerable resource—tackling America's health care crisis is something we can absolutely do within the reasonable constraints of our budget.

Now, some of our colleagues have also objected—I have heard it here on the floor—to how States such as New Jersey are treated under this legislation. They object to my home State's ability to cover children whose parents' salaries are up to 350 percent of the Federal poverty level.

I want to give a round estimate of the monthly costs facing a family living at 250 percent of the poverty level, or about $4,594 per month, in one of our counties, in Middlesex, NJ.

When you look at that monthly income and then look at the costs for housing, for food, for childcare so you can go to work, for transportation, for the taxes paid there, and then what it costs for health insurance, the reality is you have a set of circumstances where that family has a monthly deficit, a debt of $898, which means they do not have the wherewithal to do all of this. These are the basics. These are no frills. They find themselves in debt.

On top of that, comparable private health insurance in my home State can cost almost $1,800 a month.

What does a family have left at the end of the month? The answer is a staggering load of debt. If they are making 250 percent of the Federal poverty level, they are going to be in debt almost $900.

It is the same in other parts of the State as well. For example, if they are living at that income level in Trenton, NJ, the State's capital, they are going to be in debt about $856 every single month to do the basics—to have a place to call home, to put food on the table, to have childcare, to go to work, transportation to be able to achieve that, to pay their taxes, and then to have health insurance. They do not have enough money to make ends meet.

The Federal poverty level does not reflect the difference in cost of living between States. For example, if you are a family making 250 percent of the Federal poverty level in Phoenix, AZ, after all is said and done, under the same set of criteria—housing, food, childcare, transportation, and taxes and health insurance—you have a monthly surplus of about $1,347. That is left over at the end of the month because the cost of living is lower.

There is a huge difference in the family's reality with a surplus and being able to have all of these essentials versus having a debt in the two examples I showed before.

Let me give another example. In Salt Lake City, UT, the same set of circumstances—housing, food, childcare, transportation, taxes, health insurance—you have a $1,469 surplus, so you

have disposable income to be able to make other choices for your family with the same set of circumstances in terms of the Federal poverty level.

The reality is, we face a much higher cost of living. The consequences are real to New Jersey families. Let's compare State by State.

I understand 350 percent of the Federal poverty level sounds somewhat high if you do not see the numbers. But what it takes to meet that amount in New Jersey is, it takes a much less amount in all of these States—from Kentucky, Arizona, Oklahoma, Georgia, Tennessee, Utah, Missouri, North Carolina—much less. It takes much less to meet the same level of the Federal poverty level.

The bottom line is, we simply have a higher cost of living and one size does not fit all. I wish our citizens could get the same quality of life in terms of the essentials for much less money, but that is not the reality. So it makes perfect sense for different States to cover children at different levels of income in order to accomplish the same goal, which is ensuring that children at the end of the day are covered.

Even former President Bush understood that when he approved New Jersey's waiver, as he did for a long time. Even then, I would like to point out, the number of New Jersey children who fall into that category is just about 3,300 children, a tiny fraction of those enrolled nationally. Only about 2.5 percent of our children are covered under this level of the Federal poverty level.

Finally, the last time legislation to expand children's health came up, hundreds of thousands of children were left out, children who are legal—underline legal, emphasis legal—permanent residents of the United States. They follow our laws every step of the way, children whose parents work hard and pay taxes. Some of them are actually in the service of their country. These children are eventually eligible for Medicaid or CHIP, but the law says we have to bar them from coverage for 5 years first.

To a young child, 5 years is a lifetime. Here is what it means to bar legal permanent resident children and pregnant mothers from affordable public health for that long. As it stands, a girl with asthma has to go through 5 years of attacks before she can get an inhaler. A boy whose vision gets so blurry he can't see the chalkboard in the fourth grade has to wait until high school before he gets glasses. A pregnant woman who urgently needs prenatal care can't get it until her child will be ready for kindergarten.

I have not met anyone who is not outraged when they hear kids with cancer would have to wait 5 years for chemotherapy. Most people cannot believe that is the law, and it should not be. Children should not have to wait a single day to get the care they need to save and improve their lives. Good health care is essential for them to be able to fully realize their God-given potential. Children, whether they be in a classroom or on a playground, are contagious. So whether it is a legal immigrant child or a U.S.-born citizen, the bottom line is they are playing in that playground together, sitting in the classroom together. If one has health care and the other doesn't because we have an arbitrary bar, it is easy to get some cold or disease that is contagious, so there is a public health interest for all of us.

We have the opportunity to do what is right and make a major step in ensuring no child goes to bed at night without health care in the greatest Nation on the Earth. This would bring a half million kids nationwide into the State health insurance programs in this category.

Let me conclude. For all of us, this is a matter of values. Do we value our children and do our actions match our values? For those who value life, who have spoken very eloquently in this Chamber about its sanctity, and those who value family, who consider it the bedrock of our lives and our country, now is the time to show the depth of that belief because if children's health is not about protecting life, I do not know what is. If this bill is not profamily, I do not know what is.

Now is the time to give new security to millions of young lives to help America's children achieve their God-given potential and to replace fear in millions of minds with hope for a better day. That is the opportunity before the Senate, and that is the one I hope we will adopt at the end of this process.

I yield the floor.

Mr. LEAHY. Mr. President, I have listened to the debate on the amendment offered by Senator MARTINEZ to reverse President Obama's decision to overturn the Mexico City policy. I have been struck by the statements of proponents of the amendment that the President's action means Federal funds will now be used for abortions overseas. That is nothing more than a scare tactic and a flagrant misrepresentation of fact.

As those who make such statements know well, U.S. law has banned the use of Federal funds for abortion overseas for more than 30 years and that is the law today. Most recently, it can be found in title III of the fiscal year 2008 State and Foreign Operations Appropriations Act, should they choose to refresh their memories. Whether or not the Martinez amendment passes, no U.S. funds are available for abortion, even in countries where, like the U.S., abortion is legal.

The irony of this debate is that the Martinez amendment would prevent funding to private organizations that, thanks to the President's action, would be eligible to receive U.S. funds for contraceptives which prevent unwanted pregnancies and abortions. Yet they claim that unless we pass the Martinez amendment the number of abortions will increase. It is a counterintuitive, disingenuous argument that has been consistently proven to be false. The facts are indisputable. Where family planning services are available, the number of abortions declines.

Another false claim by proponents is that unless we pass this amendment U.S. funds will be used to support coercive family planning policies in China. They know that is not true. The Mexico City policy has nothing to do with coercion, pro or con. Another provision, also in the State and Foreign Operations Appropriations Act, provides the President with the authority to prohibit funds to any organization that supports coercion. And the law explicitly prohibits the use of U.S. family planning funds in China. The President's action reversing the Mexico City policy does not change that.

We all want the number of abortions to decline. But one would hope that even as we disagree on how best to achieve that, those who oppose the President's decision would stick to the facts and not try to distort or misrepresent U.S. law.

The Mexico City policy is discriminatory, it would be unconstitutional in our own country, it would deny women in poor countries access to family planning services, and it would increase unwanted pregnancies and abortions. The amendment should be defeated.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent the vote in relation to the Martinez amendment, No. 65, occur at 12:10 p.m. today, and the additional time be divided and controlled by Senators BOXER and MARTINEZ or their designees, with the remaining provisions of the previous order in effect.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, I ask unanimous consent to be allowed to speak for 2 minutes to close on the amendment.

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

Mr. MARTINEZ. Mr. President, this amendment is to reinstate the Mexico City policy which President Obama, just a couple of days ago, eliminated with the stroke of a pen. Much has been said in opposition to this amendment, which I think is erroneous. I think at the core of what this amendment is about is whether we want U.S. taxpayer dollars—my taxes, as someone who finds abortion to not be something I can live with, which is not consistent with my faith and personal beliefs—whether my tax dollars and those of other people similarly situated should be utilized to fund family planning that utilizes abortion as a means of family planning with organizations abroad.

That, I think, is wrong. That, I think, is abhorrent. It is not about denying organizations family health assistance when they are simply looking after a person's health. It is not about those rare exceptions of rape and incest, which are dragged in to try to

make what is unjustifiable justifiable. Abortion should not be utilized as a means of family planning.

We talk about wanting to have fewer abortions not more, to have it be rare not frequent, but then we do things like this, and that is completely contrary to what is the avowed intent of what so often is portrayed as the position on this issue during political campaigns.

This policy does not restrict foreign aid funding. It is to ensure that American taxpayer dollars will not go to promote nor support abortion or abortion-related services. I think it is that simple. I hope my colleagues will join in this effort. This is about what the taxpayer dollars of America should be funding overseas, in countries where very often we find that the culture and the religion of the host country is consistent with the Mexico City policy.

This is a vote to reinstate the Mexico City policy which has been the policy of this country until last week. I hopefully urge my colleagues to support amendment No. 65.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, despite the previous unanimous consent agreement, I ask consent the Senator from California be allowed to speak for 1 minute prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I want to have an up-or-down vote on this amendment. I am not going to make a motion to table. I think this is a very bad amendment, an amendment that would consign women all over the world to desperate situations because what Senator MARTINEZ wants to do is restore the gag rule. That means that nongovernmental organizations overseas who help women get reproductive health care and tell them what their legal options are and make birth control available to them so they can plan their families will lose every dollar of American support if they even try to do those things.

President Obama, like President Clinton, did the right thing. With the stroke of a pen, he stood for the lives of women and for family planning and for the health of women all over the world. We have statistics that are very clear. Senator DURBIN read them. Tens of thousands of abortions will be avoided because of the actions of our new President. For the life of me, I do not understand how someone who is against abortion could offer such an amendment which in essence will consign women to back-alley abortions and death.

If you really want to vote to promote life and health, vote against the Martinez amendment and stand with President Obama on what I know will be an overwhelming majority of Senators from both sides of the aisle in favor of doing away with this global gag rule.

If it were tried in America, it would be unconstitutional. Stand for freedom. Stand for women. Let's definitely vote this down.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The result was announced—yeas 37, nays 60, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—37

Alexander	Ensign	McCain
Barrasso	Enzi	McConnell
Bennett	Graham	Nelson (NE)
Bond	Grassley	Risch
Brownback	Gregg	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Corker	Johanns	Voinovich
Cornyn	Kyl	Wicker
Crapo	Lugar	
DeMint	Martinez	

NAYS—60

Akaka	Feinstein	Murkowski
Baucus	Gillibrand	Murray
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cantwell	Landrieu	Snowe
Cardin	Lautenberg	Specter
Carper	Leahy	Stabenow
Casey	Levin	Tester
Collins	Lieberman	Udall (CO)
Conrad	Lincoln	Udall (NM)
Dodd	McCaskill	Warner
Dorgan	Menendez	Webb
Durbin	Merkley	Whitehouse
Feingold	Mikulski	Wyden

NOT VOTING—2

Chambliss	Kennedy

The amendment (No. 65) was rejected.

Mrs. BOXER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

Mr. BAUCUS. Madam President, I ask unanimous consent that the next speakers be the following Senators: Senator MURRAY for 10 minutes, Senator CORNYN for 5 minutes, and Senator ROBERTS for 20 minutes.

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

The Senator from Washington.

Mrs. MURRAY. Madam President, regular health care is critical for a child to grow up to be a strong and healthy adult. We all know that. Yet every day millions of American children are denied access to this very basic need. They cannot get regular checkups or see a family doctor for sore throats or ear aches or fevers. So as our economy continues to struggle, this problem is growing worse.

At the end of 2007, all of us came together on a bipartisan bill that would have taken big steps toward helping millions more kids get health care. It would have renewed the Children's Health Insurance Program and made sure that almost 10 million low-income children would be covered.

It is a tragedy and a shame that children's health care became the victim of a partisan fight. But, this week, now we have the opportunity to make children's health a priority by renewing and expanding the Children's Health Insurance Program and getting it signed into law. And it could not come at a moment too soon.

In the year since former President Bush last vetoed CHIP, unemployment has skyrocketed nationally and in my home State of Washington. As a result, millions of families across our country have lost their health care in just this last year alone. That is wrong, and it is one of the reasons we have now put CHIP at the top of our agenda this year.

In difficult times such as this, it is more important than ever we make sure our Nation's children have a place to go where they can get medical care. So I am here to urge all my colleagues to support the 2009 CHIP reauthorization. It is the smart thing to do for our economy. It is the moral thing to do for our children.

Most of us in the Senate support reauthorizing and improving the Children's Health Insurance Program because we share the goal of ensuring that all our kids can get health care. Study after study has shown the benefits. Children in this program are much more likely to have regular doctor and dental care. The health care they do receive is better quality. They do better in school because they are healthy.

This bill is almost identical to the one we passed overwhelmingly in 2007. It ensures the children already enrolled in CHIP will continue to receive health care, and it provides another 3.9 million low-income children with coverage. Most of those are kids who never had insurance because their parents could not afford it or kids who lost Medicaid coverage or kids who were recently dropped from private insurance rolls. I think it is critical we expand health insurance to make sure they are covered.

Now, there are a couple specific provisions in this bill I wish to highlight to make sure everyone understands why it is so important to pass this bill now.

First, as I said at the beginning of my remarks today, the economic recession has made it even more critical that we make children's health care a top priority and reauthorize this CHIP program.

On Monday of this week, some of the strongest companies in our Nation announced they would cut 75,000 jobs

combined. Unemployment is now at the highest level in 16 years, and we are being told we have not seen the worst of it yet.

The Kaiser Family Foundation estimates every time the unemployment rate increases a point, 700,000 more children lose their health insurance. By those numbers, well over a million more children have lost their insurance in the last year alone, and many more will lose their coverage in the weeks and months to come.

This bill makes it easier for our States to ensure those children will continue at least to get health care. It adds more flexibility to the program and sets funding rates based on State budget projections, so our States that are in the worst financial shape will get more money to help pay for health care. This would be a huge help for my home State of Washington and for the many families who are struggling to provide health care for their children.

At the same time, the bill will strengthen CHIP by making sure resources are targeted at covering the low-income, uninsured children Congress meant to help when we created CHIP back in 1997. It gives States new tools to raise awareness about CHIP in rural, minority, and low-income communities to help reduce the disparity in care for minority children and extend care where it is most needed. Also, it creates a performance-based system that rewards our States for reducing the number of uninsured children by making sure that the lowest income children are the top priority for CHIP and Medicaid.

Finally, CHIP is paid for. The $32.8 billion cost is covered by a 61-cent per pack tax increase on cigarettes and other tobacco products. We aren't taking away from our other economic priorities, Social Security isn't raided, and the deficit won't be increased. It is a win-win for everyone because experts estimate that by increasing the cost of cigarettes, almost 2 million adults will quit smoking and then we will prevent millions of kids from ever getting hooked. It is good for our children now and it will help millions stay healthy in the future as well.

Although this bill does have broad bipartisan support, some of our colleagues on the other side of the aisle have tried to throw up some obstacles that distract us from the real issues. I wish to make clear right now what this bill is about. It is about our kids. This legislation is about making sure our children can see a doctor when they are sick. It is about making sure they get medicine that will help them get better. It is about honoring our promise to provide 10 million kids with health care that will help ensure they can grow into happy and healthy adults.

I come to the floor this afternoon to share a story about a little girl from my home State because I think it puts the importance of this legislation in perspective.

Meet Brenna. She is 6 years old, a bright and happy child, but she has a serious genetic condition called cystic fibrosis. Brenna's family lives in Marysville, WA, in a part of my State that has been hit tremendously hard by the economic downturn. Like a lot of people with cystic fibrosis, Brenna's health care costs are about 10 times more than the average child. It is nearly impossible for her to get private health insurance to cover the bills she and her family are facing. In fact, almost half of the children with cystic fibrosis would not have health care at all if they didn't have CHIP or Medicaid.

Brenna's mother Brandy recently wrote to me to tell me that her family depends on CHIP for Brenna and to keep her family going. I wish to read what she wrote. She said:

> I don't know what I would do if I did not have this wonderful program. I simply would not be able to pay for her to receive the care she does now. I would be in never-ending medical debt, and in the end of it all, I would most likely lose my daughter either way.
>
> The economy is rough enough right now. The SCHIP program is something I am extremely thankful for. It provides me sanity and strength every year to take care of my child and her needs. Please allow this program to continue. Our lives depend on it.

Those are heart-wrenching words from a mom. Most of us can't even imagine being in Brandy's shoes. Her daughter's story shows us how critical this Children's Health Insurance Program is. This bill in front of us today is about Brenna and the millions of children like her around the country.

What it comes down to is this: When a child gets a cut that needs stitches, has a fever or an earache or develops a serious illness such as cystic fibrosis, they should be able to get health care period. I want to make sure Brenna's mom never has to worry about her going into debt to keep her own child alive, or whether health care will be there for her daughter.

So let me say it again: This bill is about making sure our kids can see a doctor. Passing it is the smartest thing we can do for our economy, but it is also the moral thing to do for our children. So on behalf of 6-year-old Brenna, the 115,960 uninsured children in my home State of Washington, and the almost 9 million uninsured children across the country, I urge all of our colleagues to support this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 67

Mr. CORNYN. Madam President, I call up amendment No. 67 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 67.

Mr. CORNYN. 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 ensure redistributed funds go towards coverage of low-income children or outreach and enrollment of low-income children, rather than to States that will use the funds to cover children from higher income families)
>
> On page 45, between lines 17 and 18, insert the following:
>
> ''(3) LIMITATION.—
>
> ''(A) IN GENERAL.—A State shall not be a shortfall State described in paragraph (2) if the State provides coverage under this title to children whose family income (as determined without regard to the application of any general exclusion or disregard of a block of income that is not determined by type of expense or type of income (regardless of whether such an exclusion or disregard is permitted under section 1902(r))) exceeds 200 percent of the poverty line.
>
> ''(B) GRANTS TO STATES WITH UNSPENT FUNDS.—Of any funds that are not redistributed under this subsection because of the application of subparagraph (A), the Secretary shall make grants to States as follows:
>
> ''(i) 75 percent of such funds shall be directed toward increasing coverage under this title for low-income children.
>
> ''(ii) 25 percent of such funds shall be directed toward activities assisting States, especially States with a high percentage of eligible, but not enrolled children, in outreach and enrollment activities under this title, such as—
>
> ''(I) improving and simplifying enrollment systems, including—
>
> ''(aa) increasing staffing and computer systems to meet Federal and State standards;
>
> ''(bb) decreasing turn-around time while maintaining program integrity; and
>
> ''(II) improving outreach and application assistance, including—
>
> ''(aa) connecting children with a medical home and keeping them healthy;
>
> ''(bb) developing systems to identify, inform, and fix enrollment system problems;
>
> ''(cc) supporting awareness of, and access to, other critical health programs;
>
> ''(dd) pursuing new performance goals to cut 'procedural denials' to the lowest possible level; and
>
> ''(ee) coordinating community- and school-based outreach programs.''.

Mr. CORNYN. Madam President, I am here today to lend my full support to the reauthorization of the State Children's Health Insurance Program.

SCHIP was created with the noblest of intentions: to cover low-income children whose families did not qualify for Medicaid but who could not afford private health insurance. Unfortunately, there are too many children today who are eligible for CHIP who are not enrolled. I strongly believe that before we consider expanding the scope of this program, as the present bill does, we need to focus on the currently eligible population of low-income children.

That is why I have joined with a number of my colleagues in supporting an alternative known as Kids First that focuses on the original intent of SCHIP, and that is to cover low-income children. Kids First provides funding to Texas—my State—over the next 5 years at levels beyond projected spending by the Texas Health and Human Services Commission.

Across the country, thousands of children are eligible but not enrolled in health insurance programs such as

Medicaid or SCHIP, and I believe we need to focus on those children first. Frankly, in my State—not something I am proud of—850,000 children are eligible for Medicaid and SCHIP, but they are not enrolled. I think it is important we focus our efforts on getting these children covered. That is why Kids First provides $400 million for 5 years for outreach and enrollment.

We can all agree that during these tough times it is important that we assist as many low-income children as we possibly can, but it is also necessary that we accomplish this goal without placing excessive burdens on taxpayers. Kids First protects taxpayer dollars and pays for the funding by reducing administrative costs, duplicative spending, and eliminating earmarks.

Unfortunately, the bill that is now on the floor is structured in such a way that it provides billions of taxpayer dollars to cover children whose parents earn up to $100,000 and more and eliminates the requirement that States first cover low-income children before expanding their programs. One might ask how that could possibly be so. Well, through a mysterious thing known as ''income disregard'' that would, under this bill, allow coverage at 300 percent, 350 percent, and higher of poverty, but then allow States to disregard certain income which, if fully employed, would mean that a family earning about $120,000—a family of four—would be eligible for CHIP coverage, even though children in my State with families of four who make only $42,000 would not be covered. It is important we take care of the low-income children who are the original focus of the SCHIP program before we see that money being drained off, using it in other States to cover adults or to cover families making as much as 400 percent of poverty and more.

I think the bill on the floor takes an unfortunate step backward in terms of fiscal responsibility as well. The bill imposes a regressive tax on middle and low-income families and relies on the creation of 22 million new smokers to afford the future imposition of an additional tax—a staggering fact.

To improve the bill and to focus on low-income children, I have offered this amendment that prohibits redistributing funds to States that have expanded their SCHIP program to higher income families or adults, at least until we take care of the low-income kids first. The current bill rewards States for exceeding their budget, even if they spent outside of the original intent of the program. In fiscal year 2007, for example, of 14 shortfall States that received redistributed funds, out of those 14, 7 of them had expanded the SCHIP program for children beyond the 200 percent of poverty level. Of those 7, 4 had expanded their programs above 300 percent. Redistributed funds should be reserved for covering low-income children to assist States with specific outreach and enrollment activities that will help enroll a large number of low-income children who are eligible but not enrolled.

We have a choice. We can either focus on low-income children or we can choose to expand the program and leave many low-income children behind. I hope my colleagues will join me in refocusing our efforts to cover low-income children first, which is what my amendment will do.

Madam President, I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

AMENDMENT NO. 75

Mr. ROBERTS. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 75.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS], for himself and Mr. HATCH, proposes an amendment numbered 75.

Mr. ROBERTS. 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 prohibit CHIP coverage for higher income children and to prohibit any payment to a State from its CHIP allotments for any fiscal year quarter in which the State Medicaid income eligibility level for children is greater than the income eligibility level for children under CHIP)

Strike section 114 and insert the following:

SEC. 114. LIMITATION ON FEDERAL MATCHING PAYMENTS.

(a) DENIAL OF FEDERAL MATCHING PAYMENTS FOR COVERAGE OF HIGHER INCOME CHILDREN.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) DENIAL OF PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE FOR HIGHER INCOME CHILDREN.—

''(A) IN GENERAL.—NO payment may be made under this section for any expenditures for providing child health assistance or health benefits coverage under a State child health plan under this title, including under a waiver under section 1115, with respect to any child whose gross family income (as defined by the Secretary) exceeds the lower of—

''(i) $65,000; or

''(ii) the median State income (as determined by the Secretary).

''(B) NO PAYMENTS FROM ALLOTMENTS UNDER THIS TITLE IF MEDICAID INCOME ELIGIBILITY LEVEL FOR CHILDREN IS GREATER.—No payment may be made under this section from an allotment of a State for any expenditures for a fiscal year quarter for providing child health assistance or health benefits coverage under the State child health plan under this title to any individual if the income eligibility level (expressed as a percentage of the poverty line) for children who are eligible for medical assistance under the State plan under title XIX under any category specified in sub-''paragraph (A) or (C) of section 1902(a)(10) in effect during such quarter is greater than the income eligibility level (as so expressed) for children in effect during such quarter under the State child health plan under this title.''.

Mr. ROBERTS. Madam President, first, I ask unanimous consent to add Senator COLLINS as a cosponsor of this amendment, which is already cosponsored by Senator HATCH.

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

Mr. ROBERTS. Madam President, I rise today to offer an amendment to refocus this bill and to more accurately reflect our priorities in regard to low-income children. After all, that is what this bill is supposed to be all about.

The SCHIP program was established in title XXI of the Social Security Act. We had one goal, and that goal was to cover targeted low-income children. A targeted low-income child is defined as one who is under the age of 19 with no health insurance, whose family makes too much money to qualify them for Medicaid but not enough to be able to afford to buy them health insurance.

The statute is very clear about who SCHIP is intended to cover. Low-income children should be our priority. That is the intent of the program. That is what the authors of the program had in mind when it was first passed in 1997.

In Kansas, we take this priority very seriously. Our SCHIP is called HealthWave, and it covers children under the age of 19 whose families' incomes are up to 200 percent of the Federal poverty line. That is about $44,000 per year for a family of four. In 2007, we were able to cover nearly 40,000 children through HealthWave, but an estimated 32,000 low-income kids still remain uninsured. So my colleagues can imagine my surprise and frustration when I learned that some States were not following the intent of SCHIP. This was under the previous administration. That administration had granted, I think, something like 14 waivers to States that violated, in my mind, the intent of this program. So instead of prioritizing low-income children, they were, instead, exploiting loopholes and waivers granted by the previous administration to cover high-income kids and even adults—adults being covered by a program intended for low-income children. It shows us what can happen to a program.

In the 2007 SCHIP reauthorization bill, which I and other Republicans supported—and, I might add, at no small political cost—we worked hard to close some of those loopholes and to refocus our priorities toward low-income kids. Now, this new bill, H.R. 2, cancels all of our good work.

I wish to ask my colleagues a question about H.R. 2: Do you know, and do the folks back home whom you represent know, that this bill allows youngsters from families with incomes of $128,000 in some States to be eligible for SCHIP—$128,000? If that is low-income children—I don't know what the allegory is. I will think of it. I will come back to it.

So consider this: Under H.R. 2, the State of New York will be allowed to cover children from families with incomes up to 400 percent of the Federal poverty line. Now, start right there.

That is $88,200 for a family of four. In other States, 200 percent, maybe 250 percent; in New York, 400 percent. When I asked the Senator from New York how on Earth I could go back to Kansas taxpayers and say why are you paying taxes—or why am I paying taxes, on the part of the constituent for SCHIP for low-income kids, and yet you are providing it to a State where they are having the income level at 88,200? The answer I got back is that when you are poor in New York you are poorer than you are in Kansas. My response to that is, they might want to move.

In addition, a State can use something called—now get this. This is bureaucratic talk. This is—I don't know what kind of talk this is. It is gobbledygook. A State can use something called an income disregard. So we can use this income disregard which the expert panel at our Finance Committee markup admitted could exclude as much as $40,000 of additional income.

So in New York, a family of four making $128,000 per year could be eligible to receive SCHIP. In the last SCHIP bill, we closed this loophole. We put a hard cap on income at 300 percent of poverty, still higher than some of us like, to target those low-income kids. It is a lot easier to raise that level, find those kids, and add them to the rolls than go after the low-income kids and give them the insurance the program was intended to do. We came up with a compromise I thought was worth the extra coverage for Kansas youngsters.

In addition, we disallowed the practice of block income disregards. The current bill reverses that policy. How can I explain this to my Kansas families making $40,000 a year? What does this say about our priorities? We just considered an $825 billion economic stimulus bill in the Finance Committee late last night, 9:30, with amendment after amendment after amendment after amendment after amendment. It pretty well wore us out. All were defeated except one by a party-line vote.

Now we are talking about an additional $33 billion to provide health insurance to kids in families with incomes close to $130,000. I repeat, with incomes close to $130,000. That does not make any sense.

I have one more question for my colleagues, Mr. President. Are they aware that H.R. 2 could result in bonus payments being made to States for expanding their Medicaid Programs to cover kids from families making over $128,000 a year? Let me explain how this works.

In order to increase the enrollment of the lowest income kids into Medicaid, which is a good cause, we establish a bonus payment program for States that go out and identify and enroll these young people. However, some States, using their existing Medicaid flexibility, have added a new layer of Medicaid eligibility on top of their maximum SCHIP income eligibility level. They mixed the two. This Medicaid group is made up entirely of people with incomes that are above the maximum SCHIP income levels, which we have seen under H.R. 2 could be over $128,000.

We call this phenomenon in some circles the Medicaid-SCHIP sandwich. It is an extra sandwich. It is frosting on the cake, and the cake is $128,000. It will unintentionally result in States being eligible for bonus payments for expanding their Medicaid enrollments to cover very high income kids. It would be a nice thing to do if we could afford it, but we cannot.

Obviously, this is a gross abuse of congressional intent. Increasing the coverage of low-income children is and should be our priority with these bonus payments. No more sandwiches to add on to SCHIP. Even so, I still believe SCHIP is a program that is worth keeping and putting the SCHIP program back where it belongs—on low-income children.

SCHIP is not supposed to be the Adult Health Insurance Program. It is not the Rich Kid's Free Health Care Program. It is not the Pathway to Government-Run Health Care for All Program. This program is supposed to be targeting, again, low-income children. So let's make sure we take care of them first. Let's get our priorities right.

The amendment I am offering will close some of the loopholes I described in H.R. 2 that corrupt the intent of this program and skew our priorities.

Let me say something I do not have in my prepared remarks, and it refers to a good conversation I had with the former leader of the Senate, Senator Tom Daschle, who is now the designee to be Secretary of Health and Human Services. That is a job I would not want, and I told him that when he came to the office and we had a nice chat.

He asked me: PAT, what could we do, like the President wants to do, to reach out across the aisle, pass something bipartisan where everybody could agree that we could do it, do it quickly, and say: There, we have done something, instead of the back-and-forth politics like last night when we had, what, 40 amendments—I don't know, 30, 40, 50 amendments, straight party-line votes. This is not the road we want to take.

I said: Tom, why don't we take SCHIP that was passed in the last Congress. It was vetoed by President Bush, but we had large majorities. It could be passed again, same bill.

That did not happen. SCHIP popped out of the woodwork. The SCHIP horse came out of the chute, and it was a different rodeo. Underneath that saddle were four burrs. In the SCHIP program, there is a crowdout provision in regard to private insurance. That is the problem we have today. There is the problem of inserting immigration into this bill, which is a very passionate issue. We should not do that either. There are other things wrong with the bill.

This is not the bill we intended, we passed, everybody voted—not everybody voted for it; some on our side, everybody over there—and we passed it. It was the same thing in the House. We could have done it again, the same bill, but the bill is changed. And, I might add, I don't like the way it was done. This is not the way this place is supposed to run. This is not the way the Senate is supposed to run. We should have regular order. We should have committee jurisdiction. We should have hearings. We could have passed that other SCHIP bill we passed in the last session of Congress. It did not happen.

All of a sudden we had a new bill. I went to our ranking member, the distinguished Senator from Iowa, Mr. GRASSLEY. I said: What happened?

I went to the distinguished chairman of the committee, the Senator from Montana, and I asked Senator BAUCUS: MAX, I don't understand this. We usually meet as Republicans; we meet as Democrats. We get together and the Finance Committee is usually bipartisan and then we come up with something and figure out if we cannot do a bipartisan bill, we should not do it.

This is a brandnew ball game. This is not what the President said yesterday when he met with Republicans and said: I want to work with you. This is not what the President said when he said: I am going to reach out; I need your suggestions. This is a cramdown. This is a thing where we had SCHIP, and then, boom, here we are. We have SCHIP, a different bill. I cannot now vote for it. I voted for the last one, but I am not going to vote for this one because of the problems it has.

This is not the way to do business. I feel very badly I advised Tom Daschle who, obviously, advised the transition team who may have advised the President to start off with SCHIP. Now we have SCHIP and it is not SCHIP; it is sandwich plus and plus and plus, most especially for New York and New Jersey. I have been picking on New York. I might as well pick on New Jersey.

The amendment I am offering will close some of the loopholes of H.R. 2 that corrupt the intent of the program and skew priorities. My amendment strikes section 114 of H.R. 2 and replaces it with language that prevents any State from receiving Federal SCHIP funds to cover kids, young people, children, not adults, from families with incomes which are the lower of $65,000 or the State median income for a family of four.

Why do I do that? Because I want to target the program to the low-income kids. You raise all of these caps and all of these income disregards—income disregards; I love those two words, ''income disregards.'' Does that make any sense? That is not an oxymoron; it is something that does not make any sense. Income disregard. We are going to disregard this income—your house, your car, I don't know, maybe your dog. It would have to be a pure-bred dog.

At any rate, this is ridiculous. You raise it and you spend money on those folks, if you can find them. They are sure going to come to the waterhole. But you need not do that and fine the low-income kids who desperately need it. They desperately need it in Kansas and desperately need it in every State. Again, we cover families with incomes which are the lower of $65,000 the State median income for a family of four.

In addition, my amendment addresses the Medicaid-SCHIP sandwich—SCHIP funding for bonus payments for higher income Medicaid kids.

To be sure, even if this amendment is accepted, a lot of my concerns with this bill will remain, although this would be a giant step forward.

I am also concerned—this is another one of the burrs under the saddle of the SCHIP horse that came out from the chute looking entirely different from the old SCHIP horse which was about to finish first in the race. I am very concerned about the removal of the crowdout provision that had been included in both SCHIP 1 and 2 of last year.

What am I talking about? My concerns are confirmed by the CBO's estimate that over 2 million out of the 6 million new children who will be covered by SCHIP or Medicaid under this new bill already have insurance in the private market. So here we have 6 million youngsters, 2 million of whom are already covered by private insurance. That is the very definition of crowdout, and it needs to be addressed.

What is going to happen to the insurance company that covers these kids? Of course, we are trying to find the low-income kids. But we find out that 2 million—actually it is more than that—are covered by insurance. Do you think that insurance company is going to cover them? Of course not. They are going to get the free Federal program. And what does that do to the insurance company that is covering them now? It means they will probably say: I think we are not going to go into that business anymore. That could leave a lot of other people without insurance. So it is crowding out private insurance, and that needs to be addressed.

I am also upset that this debate over children's health insurance has largely been hijacked by an amendment which inserted one of the most passionate and divisive issues of the past decade into the bill. I am obviously talking about immigration. That has been debated on the floor before. That is the immigration issue. I am very disappointed it was injected into this debate.

Finally, I reiterate my discouragement with the partisan character of this new bill. I think I have indicated that. It is an insult to myself and to my Republican colleagues who worked so very hard to convince our own caucus in the Senate—very difficult—and over in the House to reach across the aisle to work on a bipartisan basis on an issue of huge importance to the children and families of this country. All of that time in good faith. Again, the horse came out of the chute. Wrong horse. Wasted now. It is unfortunate and sets a very negative tone for future health care reform discussions in the 111th Congress.

I said when we started the debate on this bill, and I appealed to the chairman who is a very fair man, a great chairman who works closely with Senator GRASSLEY—either one, it doesn't make a difference who is chairman; we work in a bipartisan way—this tears at the fabric and the comity of the Finance Committee, the very committee that is in charge of the economic stimulus that affects every American. If we are going to do this, simply ram it down our throats, burrs under the saddle and everything, or fish hooks or whatever you want to call it, that is a very bad precedent.

Now, all that being said, I hope my colleagues will support my amendment. I hope we can recapture some of that bipartisan spirit that accompanied the previous SCHIP bill just in the last session. And I hope we can again—that we can again, Madam President—place our priority on covering low-income children.

I yield the floor.

Madam President, it appears to me that a quorum is not present. 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. GRASSLEY. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. GRASSLEY. Madam President, I support the amendment offered by Senator ROBERTS. I would like to say a few things about it at this point.

The Roberts amendment would focus the Children's Health Insurance Program back to the original purpose of the program, which is coverage of low-income children. This amendment eliminates the earmarks in the bill which make it easier for States to cover children from families with incomes above 400 percent of poverty.

The amendment sets an actual threshold on a State's ability to expand SCHIP at higher income levels. It does this by capping eligibility for taxpayer-subsidized health coverage in the Children's Health Insurance Program at $65,000 in annual income. The amendment fixes another loophole in the bill which would permit States to set Medicaid eligibility higher than the Children's Health Insurance Program.

Last night the Senate Finance Committee voted out an economic stimulus package with $87 billion in increased Medicaid spending. The increased Medicaid spending is in the form of higher Federal payments to States for the coverage of people in the Medicaid Program.

We heard over and over, from the other side of the aisle, how the Federal taxpayers need to pay for more Federal dollars going into Medicaid because, if they do not, then States will cut benefits or cut back on the already dismal payments for providers who see Medicaid patients. In fact, I offered an amendment to that stimulus bill to protect the safety net. It was defeated on a party-line vote.

My amendment essentially said that if Congress is going to give States $87 billion for their Medicaid Programs, then we should make sure they do not undermine access to vital services with cutbacks to children's hospitals and public hospitals that are already struggling, and we should make sure States do not cut funds for health centers and for pediatricians.

The $87 billion in the so-called stimulus bill will not do much good to protect low-income children and families' health coverage if States are allowed to take these billions of dollars intended to protect the safety net and instead use them as their own slush fund to do whatever they want.

But, sadly, my amendments to protect the safety net were defeated. What we now have is the so-called stimulus bill. In that is nothing more than a $87 billion slush fund for the States.

With States crying out for a multibillion dollar bailout from the Federal Government, it seems to me very ironic that we have come to such a logjam over whether to allow States to expand income levels as high as 300 percent to 400 percent of poverty.

In one State, I believe it is New York, that is above $87,000-a-year income, plus $40,000 to disregard above that.

On the one hand, the other side is fighting so hard to allow States to expand the Children's Health Insurance Program to allow coverage at these higher income levels while, on the other hand, they are saying that unless the Federal Government dumps billions of dollars into State coffers, States will be forced to eliminate benefits and services at very lowest income levels.

That argument obviously makes no sense whatsoever. We should be focusing our efforts on covering low-income kids first. The other side will come down here and say that is what they are doing. But when they are unwilling to back up their rhetoric with changes to actually do that, I wish to make sure everyone understands what we are talking about with this legislation and particularly the Roberts amendment.

The Children's Health Insurance Program provides higher Federal matching dollars to States to provide health coverage for low-income children. That is what it does. The higher Federal matching dollars are there to encourage States to expand their program and get these kids covered. This program has been in place now since 1997—obviously 12 years—and still there are about 6 million low-income uninsured children in America today. The Children's Health Insurance Program reauthorization should be focused on getting these low-income kids covered and

that should be the top priority in this bill. But this bill goes in a different direction. It allows coverage of kids and families with incomes of $83,000.

The median family income in America is roughly $50,000, and I imagine in my State it is probably even lower than that. The median income is the point at which half the households have incomes above that level and half have incomes below that level. So when the Government steps in and says let's have the taxpayers pay for your health coverage, those scarce dollars should be focused on the low-income kids this program is intended to insure—those kids, obviously, who are still uninsured. That ought to be our first priority.

But when the program is allowed to cover children in families at $83,000, and even higher, that means families below the median income are being forced to pay for the health care costs for children of families in the top half, and they are being forced to have their taxes go up to pay for that coverage in the top half, when they may not even have coverage for their own children. That is just plain wrong.

What Senator ROBERTS' amendment does is cap the eligibility for programs at families with incomes of $65,000. Some people are going to say even that is too high. But at least we are kind of keeping it toward the national median income. That is still a family income that is above, obviously, the median income. A lot of people would say that is still way too high. I cannot say that too many times because I know what the grassroots of America are saying about what we do around here, particularly in rural America; that it seems like we do not understand how the average family lives. But the Roberts amendment is better than the unlimited coverage this Children's Health Insurance Program bill would allow.

But the other side does not want to have any amendments. This is a fundamental difference we have in how we think about things. They believe the Government has to be the solution. They will oppose putting any income limits on eligibility. They want to allow States to expand their programs so taxpayers in the bottom half of incomes in America are helping to buy health coverage for people in the top half of the income or in my State of Iowa, where the average income is less than $50,000, they are going to say Iowans ought to support New York families with incomes of $83,000 for a Children's Health Insurance Program in that State. They believe Government has to be a solution to cover higher income kids. They believe if the Government does not do it, then it will not happen—even though we have about 6 million low-income kids still uninsured in this country; even though States are crying out for the multibillion dollar bailout that is going to be in the stimulus package. They still want to say they will oppose putting any limits on this program. It is outrageous.

When we are headed toward a Federal budget deficit of $2 trillion or more this year, we need to get a grip on reality. Policies that encourage expansions at such high income levels, $83,000 and above, are counter to that effort and are at odds with the fiscal reality and the current demands of States.

I say that every Member ought to take a look at the Roberts amendment. It is a commonsense step to make this bill do what the Children's Health Insurance Program was supposed to be doing for the last 12 years, since it was first instituted in 1997—to help low-income kids get the coverage that they would not otherwise have.

I support this amendment and urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Madam President, I rise today to offer my strong support for the reauthorization of the State Children's Health Insurance Program because I have been a longtime advocate. It is so crucial to my State, to the Presiding Officer's State, and to the country in terms of the magnitude of the problem it seeks to address with uninsured children.

Before I address the merits of the legislation, I wish to recognize the exceptional leadership of the chairman of our committee, Senator BAUCUS, for bringing us to this point, for a long overdue reauthorization. It has been quite a journey over the last few years.

I know there have been some differences, ones that have been expressed by the ranking member, Senator GRASSLEY, as we have heard here on the floor, but he has been a constructive voice to bridge the divide and to reach a mutually acceptable agreement on this legislation. So his good-faith efforts always should be saluted.

Regrettably, the stakes are monumentally higher than when we first tried to pass a reauthorization bill a year and a half ago. Just this week, the Department of Health and Human Services announced that 7.4 million children were enrolled in the SCHIP program in 2008, which is a 4 percent increase over the previous year. While part of that increase is attributed to state outreach efforts, which should certainly be promoted, the fact remains that SCHIP is offsetting the continued declines we have been experiencing in employer-sponsored coverage. And we cannot turn a blind eye to the fact that a 1 percentage point rise in the national unemployment rate boosts Medicaid and SCHIP enrollment by 1 million, including 600,000 children.

For many working families struggling to obtain health care, if benefits are even accessible to them, the costs continue to rise, moving further out of their reach. In my own State of Maine, a family of four can expect to pay $24,000 on the individual market for coverage. For most, taking this path is unrealistic and unworkable.

The fact is, SCHIP for years has been a saving grace to millions of parents who have had to make wrenching choices when it comes to balancing adequate health insurance coverage with the cost of mortgages, heating bills, trying to save for their child's college education, and myriad other financial pressures. While some may mistakenly characterize SCHIP coverage as a welfare benefit, they may not realize that nearly 90 percent of uninsured children come from families in which at least one parent is working.

The anguish of parents who work hard to make ends meet, yet still cannot afford to pay for health coverage for their children, is truly devastating indeed. They face decisions no parent should have to confront such as whether their child ''is really sick enough'' to go to the doctor. They worry about their children doing simple, everyday activities such a playing on the playground, riding a bicycle, or participating in sports, merely because they cannot afford the consequences of a broken arm or a sprained ankle. All too often, their only alternative is to ratchet up their credit card balances, often irrespective of mounting debt.

And over the past 10 years, Maine has been one of the most aggressive states in the nation in enrolling eligible children. Today, SCHIP covers 15,000 children in Maine. Yet there are 11,000 children who are eligible and still un-enrolled. That is why a strong reauthorization is so critical. The bill before us will maintain health coverage for the children who are already enrolled and reach nearly 4 million additional children. It provides $100 million explicitly for outreach efforts. And it changes the funding formula to recognize the gains States like Maine have made in successfully enrolling low-income children, while at the same time building in performance incentives for States that have room to improve their outreach and enrollment efforts.

I know many in my caucus will have amendments that condition eligibility expansions in the program to the ability of States to reach nearly all eligible but un-enrolled children. Make no mistake, I share their goal in trying to reach out to as many children as we can. One way is through the ''express lane eligibility'' option which is already part of this bill. More than 70 percent of low-income uninsured children live in families that already receive benefits through Food Stamps, the National School Lunch Program, or the Special Supplemental Nutrition Program for Women, Infants, and Children, WIC. Giving States the option to use Express Lane Eligibility will simplify the way States determine who is eligible. It will lead to quicker and more meaningful coverage gains.

Beyond simply enrolling children in the program, this bill provides us an opportunity to emphasize preventive care, so not only are children covered, but we also improve their care. I am

particularly heartened that the package recognizes that dental care is not a ''luxury'' benefit, but one that is paramount to the healthy development of children. Under current law, dental coverage is not a guaranteed benefit under SCHIP. While all States offer dental coverage today, the lack of a Federal guarantee for dental care in SCHIP has left children's oral health unstable and unavailable in some States. An unstable benefit that a State may offer one year and then drop the next threatens a dentist's ability to see a child regularly and can even discourage dentists from participating in SCHIP altogether. That is why I am pleased that the bill contains a guaranteed dental benefit under SCHIP, a policy that Senator BINGAMAN and I have advocated both in the Finance Committee and here on the Senate floor.

And even beyond access to a guaranteed benefit, we had an opportunity to further meet an unmet need. Today, there are 4.1 million children in our country under 200 percent of poverty who have private medical coverage but not dental. That is why I am delighted that the Finance Committee accepted by voice vote the Snowe-Bingaman-Lincoln amendment that builds on a guaranteed dental benefit under SCHIP by giving States the option to provide dental-only coverage to income eligible children.

A number of my colleagues have expressed concern about SCHIP crowding out private coverage. Our amendment addresses part of that problem. Anecdotal evidence suggests that some parents eventually drop employer-sponsored coverage for a child in order to access dental coverage through SCHIP. We give States this option so that working families without dental coverage have an incentive to maintain private medical coverage, while gaining parity with their peers who are now guaranteed dental coverage through SCHIP. It is a win-win situation.

All children should have access to comprehensive, age-appropriate, quality health care, including dental coverage, whether they are in public coverage or private coverage. Proper dental care is crucial to a child's health and well-being. Yet more than half of all children have cavities by age 9, and that number rises to nearly 80 percent of teenagers by the time they graduate from high school.

And if we required any more reason why we should support better coverage of dental care, consider the heartbreaking story of the late Deamonte Driver from Maryland. His tragedy puts an all-too-human face on the critical need for proper preventive dental care. The cost of treating his brain infection that resulted from an abscessed tooth at Children's National Medical Center 2 years ago was over $250,000, and despite their best efforts, the medical team failed to save his life. Yet a tooth extraction in a dentist's office would have cost under $100. In describing this tragedy, the Washington Post reported that ''there can't be a more vivid reminder of how shortsighted our system is in not fostering access to preventive health care that saves not only money, but lives.''

Another accomplishment of this bill is the option for States to extend coverage to low-income pregnant women through SCHIP. It is inconceivable to me that the most prosperous nation on earth continues to lag behind the rest of the developed world in providing quality health care to expectant mothers. The United States ranks 41st among 171 countries in the latest U.N. ranking of maternal mortality. Our country is better than this. That is why Senator LINCOLN and I have long been involved in promoting investments in maternal health both in this country and globally.

The benefits of covering pregnant women are clear. Women who regularly see a physician during pregnancy are less likely to deliver prematurely, and are less likely to have other serious medical issues related to pregnancy. Sometimes, these medical problems can be caught early on and can be addressed before the child is born. Other times, knowing about these health issues ensures that the necessary facilities will be available at the time of birth so that the baby has the best chances for a healthy start. Without a doubt, coverage of low-income pregnant women through SCHIP, combined with the development of quality measures so we know how we can improve, will build stronger, healthier families.

I also supported Senator ROCKEFELLER's amendment to give States the option to provide coverage of legal immigrant children. More than 20 States make this coverage available using their own dollars, and the longer we wait to extend coverage to legal immigrant children and pregnant women, the more likely they will be in worse health if they eventually are covered by Medicaid and SCHIP. Allowing States the option to extend coverage to new legal immigrants would reduce these health disparities, as well as address inefficient health care spending by ensuring access to preventive care, as opposed to relying on expensive emergency room care.

I hope that my colleagues will see the true benefits of this bill and support it. This bill would allow states to increase SCHIP eligibility up to 300 percent of poverty, or $61,950 for a family of four, a boost that represents the right policy in view of the fact that over 8 million children remain uninsured today in the United States. The data available demonstrate that drawing the eligibility line at 300 percent of poverty will help maximize the number of children we help with this bill. In Maine alone, for example, approximately three-quarters of uninsured children are from families with incomes of 300 percent of poverty or below.

The bill contains exemptions for State expansions that are already in place or for States that already have a State law allowing an expansion in coverage in place today. From the start, States were given flexibility in how they could count income. The reason is due to the fact that there are strong variations among States in cost of coverage. A poverty rate of 200 percent in the New York metropolitan area is very different than that same rate in rural regions of the country.

This bill addresses the concerns over future coverage expansions. Going forward, if a State wants to exclude large blocks of income and expand beyond 300 percent of poverty, they can do so at the regular Medicaid match not the enhanced SCHIP match. And to further ensure that we are creating incentives for States to concentrate on the poorest children before expanding to higher income children, the bill provides over $3 billion in bonus incentives for increasing Medicaid enrollment of eligible children.

And yet, inexplicably, we will hear a chorus of reasons why we should not expand SCHIP. Some will express concerns about the size and cost of the package, which is $32 billion. Given the fact that over 8 million children in this country are uninsured, I would respond that it is a reflection of the magnitude of the problem. Is it any wonder that States have responded to the call of families who are struggling every day with the cost of health insurance and are assuming a tremendous burden in the absence of Federal action? This bill is a critical first step towards greater health reform.

Some of my colleagues will say that SCHIP will crowd out private coverage. Again, parents are choosing SCHIP because their employer sponsored coverage is often too expensive if it is even offered at all. In the early days of SCHIP, employers covered about 90 percent of the cost of health insurance for employees. Today, it is loser to 73 percent. And according to a recent Corporate Executive Board survey, one-fourth of large employers increased health insurance deductibles by an average of 9 percent in 2008, and 30 percent plan to increase deductibles by an average of 14 percent in 2009. This bill is reaching out to these families who are struggling with the costs while aligning the incentives for States towards coverage of families below 200 percent. And under this bill, 91 percent of children will come from families under 200 percent of poverty.

Some of my colleagues will argue that SCHIP is the first step toward Government-run health care. Our 10-year experience thus far with SCHIP demonstrates that this absolutely has not happened. Moreover, these claims ignore the fact that today, 73 percent of the children enrolled in Medicaid received most or all of their health care services through a managed care plan.

SCHIP has been the most significant achievement of the Congress over the past decade in legislative efforts to assure access to affordable health coverage to every American. Compromise

on both sides of the aisle helped us create this program 10 years ago, and hopefully a renewed sense of bipartisan commitment will help us successfully reauthorize this vital program.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENTS NOS. 67 AND 75

Mr. BAUCUS. Madam President, I ask unanimous consent that the Senate debate concurrently the Cornyn amendment No. 67 and the Roberts amendment No. 75.

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

Mr. BAUCUS. If I might continue, Madam President.

The PRESIDING OFFICER. Yes.

Mr. BAUCUS. That the time until 2:15 p.m. be equally divided between the chairman and ranking member, or their designees; further, that at 2:15 p.m., the Senate proceed to a vote in relation to the Cornyn amendment No. 67; following disposition of the Cornyn amendment, the Senate proceed to a vote in relation to the Roberts amendment No. 75; further, that no amendments be in order to the Cornyn and Roberts amendments prior to the votes; that there be 2 minutes for debate equally divided prior to the second vote; and that the second vote be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona.

AMENDMENT NO. 46

(Purpose: To reinstate the crowd out policy agreed to in section 116 of H.R. 3963 (CHIPRA II), as agreed to and passed by the House and Senate)

Mr. KYL. Madam President, I ask unanimous consent that the pending business be laid aside for the purpose of my offering amendment No. 46.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 46.

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

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

(The amendment is printed in the RECORD of Tuesday, January 27, 2009, under ''Text of Amendments.'')

Mr. KYL. Mr. President, this amendment deals with a problem we have discussed before, the so-called problem of crowdout. This problem was dealt with in the amendment by my colleague Senator MCCONNELL. But the Senate did not see fit to adopt that amendment, so I have now offered the amendment to specify that as to this one specific problem, hopefully, we can get together and resolve it.

First of all, what is ''crowdout''?

Put simply, the more individuals you enroll in a Federal health program such as SCHIP, the more you crowd out or displace from employer-sanctioned or sponsored coverage. In other words, the more opportunity there is for the Government program, fewer employers will offer insurance to their employees.

The Congressional Budget Office actually did a study of this in May of 2007, and here are some of the things they said: For every 100 children who enroll as a result of SCHIP, there is a corresponding reduction in private coverage of between 25 and 50 children. So that is between 25 and 50 percent will leave private insurance to come to SCHIP.

They said: The potential for SCHIP to displace employer-sponsored coverage is greater than it was for the expansion of Medicaid because the children eligible for SCHIP are from families with higher income and greater access to private coverage. Again, that is from CBO.

Unfortunately, we have exacerbated this problem because, as I had explained earlier, in the underlying bill we have actually allowed some States to cover families with very high incomes.

For example, there is an exception for two States: New Jersey and New York. New Jersey will be allowed to continue covering children from families earning as much as $77,175 per year. New York will be allowed to cover children from families earning as much as $88,200 per year. That is 400 percent of poverty.

Making matters worse, the committee counsel acknowledged that States can exploit a loophole in the current law whereby a State may disregard thousands of dollars' worth of income in order to make a child eligible for SCHIP.

So you add these numbers together. If we set an income level for New York, for example, of $88,200, and then the State disregards an additional $40,000 worth of income for expenses such as clothing or transportation or the like, then children whose families earn over $130,000 would be eligible.

Not only, obviously, is that wrong, not only is it unfair for those of us who come from States that cover half that number—in other words, our citizens would be subsidizing the coverage at twice as much as a State such as Arizona provides—but it will also exacerbate the problem of crowdout because these are higher income families more likely to have insurance coverage that would then devolve to the SCHIP program.

So this is the essence of the problem of crowdout, the problem we are seeking to deal with.

Mr. ROBERTS. Mr. President, will the distinguished Senator from Arizona yield for a question?

Mr. KYL. I am happy to yield.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I would ask the distinguished Senator from Arizona, it is my understanding section 116, the anticrowdout section from the previous bill—meaning SCHIP II which passed both the House and the Senate by big majorities last year, and was recommended by some of us as the first bill that should come up this year so we could demonstrate bipartisan support, thinking, of course, the anticrowdout legislation would be in it. It is my understanding that section 116 was left out of the SCHIP bill that we are considering today.

Section 116 required that all States submit a State plan amendment detailing how each State will implement best practices to limit crowdout—the very problem the Senator has been talking about. It also required the Government Accountability Office to issue a report describing the best practices by States in addressing the issue of SCHIP crowdout. Finally, it required the Secretary of HHS to ensure that States which include higher income populations in their SCHIP program to cover a target rate of low-income children, or these States would not receive any Federal payment. This is the very thing we are talking about here whereby under H.R. 2, two States are allowed to expand eligibility up to 400 percent of poverty—that is $88,200—and then you allow income disregards on top of that—that is a marvelous term: ''income disregard''—which allow you to subtract $10,000 for your car; $10,000 for your house; $10,000 for your food, clothing, whatever; up to $40,000 on top of $88,200—how on Earth am I going to explain to a Kansas taxpayer, an Arizona taxpayer, any taxpayer that you are giving a program intended for low-income kids to children of people earning $128,000?

At any rate: Section 116 required that states that included these higher income populations in their SCHIP programs cover a target rate of low-income children, or these States would not receive any Federal payment for such higher income children. That was section 116. What happened to that?

Mr. KYL. Mr. President, well, that is exactly the point of my amendment. The bill the Senator from Kansas voted for last year had section 116 language in it. The Senator is precisely correct about what it did. That was not Republican language. That was drafted by the chairman of the committee and the leadership in the House, Democratic leadership, and supported by Members on both sides of the aisle when that bill passed. But in writing the bill this year, they dropped that language.

Now, I do not know why they dropped it, but it was dropped. All my amendment does is to add back that language. I have not changed a comma or a period or a semicolon. I took the language they drafted last year, in the bill that passed, and reinserted it in this bill.

Mr. ROBERTS. Mr. President, will the distinguished Senator from Arizona yield for another question?

Mr. KYL. Mr. President, I would. If I could ask the Senator from Texas, who has one of the pending amendments, if he wants to speak on his amendment, I will yield.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KYL. I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I might remind all my colleagues 69 Senators voted for the underlying bill, essentially, when it was last before the Senate in 2007, and that bill did not include the amendments the Senators on the floor are now suggesting; that is, 69 Senators voted for the bill without these two limiting amendments that are being suggested on the floor.

The Children's Health Insurance Program is clearly helping lower income families. In 2007, 91 percent of children enrolled in CHIP were in families living at or below 200 percent of poverty. It is helping those people. The bill also, I might say, with respect to this so-called issue of crowdout, provides States with bonus payments—additional money—to cover more uninsured low-income kids in Medicaid, and those are the kids from the lowest income families. This bill targets low-income people.

Also, there are other outreach initiatives designed to encourage States to find low-income kids who are eligible but not enrolled.

Now, I must say, it is true in some States kids are eligible in families earning more than twice the poverty level. These two amendments would reduce Federal funding to these States. I think that is not a good idea. We should resist efforts to kick kids off the Children's Health Insurance Program. That is what those amendments would do.

One of the hallmarks of the Children's Health Insurance Program is giving States flexibility in designing their own programs. Remember, this is a block grant program.

States have the option to participate. States decide if they want to participate. I must also say this bill before us takes the more limited version of the two bills that were voted on by very large margins in this body last year with respect to the 300 percent of poverty.

What I am getting at is this. If the States want to go above 300 percent of poverty, they get the lower match rate. The lower Medicaid rate. They do not get the higher Children's Health Insurance Program match rate. It is a discouragement to those States that, at their own option, decide they want to go above 300 percent of poverty.

Do not forget the poverty rate is a national figure. It is not the poverty rate of one State versus another State. It is a national figure. Some States are healthier States. Some incomes are higher than they are in other States. So it makes sense some States, at their own option, might decide they want to cover children above the national Federal poverty level. But if they do so, the bill provides a lower match rate. I must also say, this bill gives States a reduced Federal match rate along the lines I have indicated.

Let me add to that and make one more point. It is a difficulty with the Roberts amendment because it caps the Federal match at families with $65,000 or median State income. What is the problem?

First, the amendment uses a flat dollar amount and does not index it for inflation. Obviously, over time, that means the Federal funds would have to be fewer and fewer for families because inflation would cut into the families' ability to participate, as inflation eats away at the value of the dollar.

Second, using median State income is an additional problem because the program is directed at helping families who make just a little more than Medicaid levels but not enough to afford private insurance.

The Federal poverty level for a family of four is just a little more than $21,000. In many States, the median State income is less than twice the Federal poverty level—less than twice, less than 200 percent of the Federal poverty level. Thus, the Roberts amendment would constrain Children's Health Insurance Program funding severely in those States compared with other States.

For example, in Mississippi, the median household income is $35,900. That is 170 percent of the Federal poverty level—not 200 percent; it is 170 percent. That means we would have to cap the match rates in Mississippi at lower than 200 percent of poverty; that is, at the 170 percent level.

In 10 States, the median household income is less than 200 percent of poverty. Those States include New Mexico, Montana, Tennessee, Oklahoma, Alabama, West Virginia, Kentucky, Louisiana, Arkansas, and Mississippi.

So the effect of the Roberts amendment would be to further constrain States to take kids off CHIP—those kids who are in families at less than 200 percent of poverty. I do not think that is what we want to do, but that is the effect of the Roberts amendment.

The policy on low-income kids in the bill is the same policy that was in this first Children's Health Insurance bill. The Senate passed that bill with 69 votes, including Senator ROBERTS, I might say, and Senator HATCH. They both voted for the underlying bill and without these amendments that have been on the floor. True, that bill was vetoed by President Bush, and the House was unable to override the veto. But 69 Senators voted for these policies that are in this bill, without the amendments that have been suggested on the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent that the Senator from North Carolina be recognized for 1 minute and that then I be recognized for 1 minute following that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Carolina.

Mr. BURR. Mr. President, I thank my colleague.

The chairman alluded to the fact that some States need more flexibility because the income in their States is higher. One of those States that is grandfathered is the State of New Jersey. It is allowed to include up to 350 percent of poverty for SCHIP participants.

Now, it is important to understand that when you increase flexibility, you decrease the likelihood of people under 200 percent of poverty being enrolled. New Jersey ranks 47th out of 50 States in the enrollment of kids 100 percent above poverty to 200 percent above poverty. Twenty-eight percent of the kids in that category in New Jersey are uninsured.

Increase flexibility, decrease the number of enrollees targeted in the 100 to 200 percent of poverty—the uninsured, at-risk, low-income children. It is very simple.

I yield.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 67

Mr. CORNYN. Mr. President, the question I think the American people want to know every time we come to the floor with some legislation is, Will it work? Will it work? Well, SCHIP, as laudable as it is, is not working the way Congress intended when we passed it.

I came to the floor and mentioned the fact that with 850,000 Medicaid and SCHIP-eligible children in Texas, that now the money that will be spent on this program will be spent to insure much higher level income families as well as adults without focusing on those low-income kids first. My amendment would redirect those funds to make sure they are reserved for covering low-income children or for outreach and enrollment activities. I think it is important we put some money into that, to let people know, to educate them that this is available for their children and then sign them up, rather than the use of those funds to cover children from higher income families.

This amendment sends a message that Congress will meet its responsibility of putting first things first by taking care of low-income children.

I yield the floor and urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Montana has 1½ minutes remaining.

Mr. BAUCUS. I thank the Chair.

Mr. President, this is very simple. The real question is, Do we want to kick kids off of the Children's Health Insurance Program—kids who are currently qualified, and qualified because that was a State decision, that was the State option. Most States made that decision for those kids to be included. The Federal poverty level is a national figure, so we cannot apply the Federal poverty level fairly to New York or Mississippi or other States because it

is not relevant because the income levels of States are different. It is not fair to take kids, in my judgment, off SCHIP. There are also provisions in the States that eliminate childless adults, We do not allow waivers. There was a waiver by President Bush that allowed New Jersey to have that higher level.

The bottom line is let's keep the program. It is good. Sixty-nine Senators voted for the underlying bill last time.

We did it for the right reasons. Let's do it again.

Mr. President, I move to table the Cornyn amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Louisiana (Mr. CHAMBLISS).

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

The result was announced—yeas 64, nays 33, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—64

Akaka	Gillibrand	Nelson (FL)
Baucus	Hagan	Pryor
Bayh	Harkin	Reed
Begich	Inouye	Reid
Bennet	Isakson	Rockefeller
Bingaman	Johnson	Sanders
Bond	Kaufman	Schumer
Boxer	Kerry	Shaheen
Brown	Klobuchar	Snowe
Burris	Kohl	Specter
Byrd	Landrieu	Stabenow
Cantwell	Lautenberg	Tester
Cardin	Leahy	Udall (CO)
Carper	Levin	Udall (NM)
Casey	Lieberman	Vitter
Collins	Lincoln	Voinovich
Conrad	McCaskill	Warner
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Murkowski	
Feinstein	Murray	

NAYS—33

Alexander	DeMint	Lugar
Barrasso	Ensign	Martinez
Bennett	Enzi	McCain
Brownback	Graham	McConnell
Bunning	Grassley	Nelson (NE)
Burr	Gregg	Risch
Coburn	Hatch	Roberts
Cochran	Hutchison	Sessions
Corker	Inhofe	Shelby
Cornyn	Johanns	Thune
Crapo	Kyl	Wicker

NOT VOTING—2

Chambliss	Kennedy

The motion was agreed to.

Mr. LEAHY. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 75

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided on Roberts amendment No. 75.

Mr. ROBERTS. Mr. President, my amendment is very simple, I say to all those milling about. My amendment strikes section 114 of H.R. 2 and replaces it with language that prevents any State from receiving Federal SCHIP funds to cover kids from families with incomes which are the lower of $65,000 or the State median income for a family of four.

It also addresses the Medicaid-SCHIP sandwich by preventing States from receiving SCHIP funding or bonus payments for any higher income Medicaid kids.

We now have States that can cover kids with family incomes up to $128,000. I do not think that is right.

Let me tell the chairman he is absolutely wrong if he says median income is too low. It is median family income, as determined by the Secretary, look at page 2 of my amendment. But how on Earth can we explain to people that we are giving money to a $128,000 income family of four when this is supposed to be for low-income kids? You are ruining SCHIP.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana is recognized for 1 minute.

Mr. BAUCUS. Mr. President, there are at least 10 States with median incomes at such a level that the effect of this amendment would take kids off the rolls, even when the parents' incomes are lower than 200 percent of poverty. That is because in those States, the median family income is lower than what is prescribed in this amendment. I can list the States. It makes no sense for kids of families who are at lower than 200 percent of poverty to be taken off the Children's Health Insurance Program. That is the effect of this amendment.

In addition, the amendment denies States the opportunity to set the levels they want. Some States are much more wealthy than other States. It is also an optional program. We also cut the reimbursement rate. That is the match rate for States that are wealthier States.

The main point I want to say is, already 91 percent of the kids are in families under 200 percent of poverty. The effect of this amendment would take the kids lower than 200 percent of poverty in 10 States off the rolls, and that is not the right thing to do.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to Roberts amendment No. 75.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

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

The result was announced—yeas 36, nays 60, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—36

Alexander	Ensign	Martinez
Barrasso	Enzi	McCain
Bennett	Graham	McConnell
Brownback	Grassley	Nelson (NE)
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Coburn	Hutchison	Sessions
Cochran	Inhofe	Shelby
Corker	Isakson	Thune
Cornyn	Johanns	Vitter
Crapo	Kyl	Voinovich
DeMint	Lugar	Wicker

NAYS—60

Akaka	Feingold	Murkowski
Baucus	Feinstein	Murray
Bayh	Gillibrand	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Bond	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown	Kerry	Schumer
Burris	Klobuchar	Shaheen
Byrd	Kohl	Snowe
Cantwell	Lautenberg	Specter
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lieberman	Udall (CO)
Collins	Lincoln	Udall (NM)
Conrad	McCaskill	Warner
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden

NOT VOTING—3

Chambliss	Kennedy	Landrieu

The amendment (No. 75) was rejected.

Ms. STABENOW. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 46

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Arizona, amendment No. 46.

Mr. KYL. Mr. President, this amendment which I laid down before the last two votes deals with the problem of crowdout, the problem CBO identified, that for every 100 children who enroll as a result of SCHIP, there is a corresponding reduction in private insurance coverage of between 25 and 50 percent. In fact, CBO's number, their estimate, as a result of people leaving private coverage and going into the Government program as a result of this bill, is nearly 2.5 million individuals. That is what this amendment seeks to address.

The amendment is the identical language in the bill that was written by the House majority last year, passed when that bill then came back over to the Senate, passed this body, was sent to the President, and he vetoed the language. It was not written by Republicans, it was written by Democrats, and it attempted to deal with the problem of crowdout. I will describe that after a while. It is not the language I would have preferred, but at least it recognizes the problem.

As a result, I ask my colleagues, what is wrong with the language? Why do we not want to address this problem of crowdout? Since I borrowed your language, didn't change a period or a comma, what is wrong with including that in this bill?

The chairman of the committee noted that 69 percent of the Senators voted for the original bill that did not have the language in it. True. But also, whatever similar number voted for the bill after it passed the House, that did have the language in it.

But that is not the important point. The important point is that, recognizing there was a problem, the House, along with the chairman of the committee here in the Senate, wrote the language, put it in the bill, yet did not include it in the legislation that is pending before us. That is why I have offered this amendment—the same language—to try to deal with this problem.

I was told the Senator from Kansas had a question he wanted to ask, and I yield for the purpose of a question.

Mr. ROBERTS. Mr. President, I ask whether the distinguished Senator from Arizona will respond to a question?

Mr. KYL. Mr. President, I will be happy to.

Mr. ROBERTS. I am trying to figure out the practical effect of this. You have already described the fact that this is exactly the same legislation, the same language in the legislation that was passed by this body and the House last year—CHIP I, CHIP II—and then it was deleted. They were talking about crowding out, and that is what happens when public subsidies encourage people to give up their private insurance.

So I am sitting here trying to figure this out. The CBO analysis says that 400,000 children will be covered in higher income families, but another 400,000 children will drop their existing private coverage as a result.

I think you had another figure that you just said.

Mr. KYL. Mr. President, the reason for the disparity is this: CBO says 2.5—2.4, to be exact, 2.4 million people will lose coverage from their private health insurance as a result of this legislation. For the higher income, it is almost a 1-for-1, and that is the 400,000 number the Senator from Kansas is talking about. Literally, for every person who is added, a person is dropped.

Mr. ROBERTS. So the SCHIP legislation ensures one new child for the cost of two. That doesn't seem like a very good deal.

But here is what I want to get to. Is this correct, in the view of the Senator from Arizona. You are an insurance company—BlueCross BlueShield in Kansas, for that matter, Arizona, or John Deere from Iowa—I know they provide this kind of insurance for low-income families. What happens to them when SCHIP expands and crowds them out? And another thing, I'm assuming that providers get less in terms of reimbursement from SCHIP than they do from private insurance. So if I am a provider—and this story has been told in Medicaid, it has been told in Medicare, and now it is going to be told in SCHIP—and I get paid less, some providers are going to say: Adios. I am sorry, I am not going to see you.

Basically, we had that with Medicare Part D and pharmacists, where they were only reimbursed up to 70 percent, and some of them say: I am not going to do this anymore.

Now we are doing it with SCHIP because we are crowding out the private insurance companies. If you are a private insurance company, if you are John Deere of Iowa, and all of a sudden somebody comes along and takes away this number of youngsters from the coverage, how are you going to exist?

Mr. KYL. Mr. President, the Senator from Kansas makes a very good point. There are cascading effects of this, first, on private insurers, who will not have the people to cover; second, the Senator mentioned providers. Physicians, for example, will get paid a lot less under this program than they would otherwise. We have seen what happens with Medicare when they reduce their reimbursement to physicians. You have a lot fewer physicians available to treat the patients, as a result of which, probably not only will you have the problems I discussed, but you will have a problem with access and quality of care as a result. That is something that had not occurred to me, and I appreciate the Senator from Kansas making that additional point.

Mr. ROBERTS. I thank the Senator.

Mr. KYL. Mr. President, I had promised the Senator from Michigan I would go no more than 5 minutes, and I would appreciate being advised when I am at the 5-minute mark.

The PRESIDING OFFICER. The Senator will be advised.

Mr. KYL. I appreciate that. My presentation is now going to have to be interrupted yet a third time here.

I will describe what the amendment does in precise terms. It calls for various reports and studies and efforts by States to ensure they have a plan for making sure there is a minimum amount of crowdout and calling for the Secretary to determine if a State is doing a good job of covering these low-income kids. We can go into more detail about that. Again, it is not language I wrote; it was written by the House and Senate Democrats.

Why is this important? One of the reasons is that as we keep expanding the people who are entitled to coverage here, why are not the lower income kids being covered? There is a very simple explanation. The Senator from North Carolina brought it out earlier: It is easier to identify a higher income cohort of families and cover their kids than it is to find the low-income kids.

This is the problem with a State such as New Jersey. It is why we cover up to 350 percent of poverty there. What they are doing is taking the higher income people. They can find them, they can get them covered, they already have insurance. And as the Senator from Kansas pointed out, on the higher income families, there is almost a one-to-one ratio. You add a person on, one person drops off of private health insurance coverage. It is much easier to do that and build up your numbers than it is to do the tough work of finding those low-income kids, and that is who this program is supposed to be all about. I regret we did not adopt the amendment of the Senator from Kentucky, because the thrust of his amendment was to find the low-income kids, the kids at 200 percent of poverty or below, and get them into this coverage. That is where we are failing.

Instead, under the bill we are considering, we keep adding more and more people at higher incomes. Sure, you can find them, we are covering more kids, but are we covering the kids who need the help? The answer is no. That is why this is so important. That is why this crowdout issue, in addition to the points the Senator from Kansas pointed out, is so important for us to try to resolve.

Again, I do not understand why it is not appropriate to include the same language that was in the legislation last year that went to the President of the United States, because at least it is a modest effort to address the problem of crowdout.

One more point here. What has happened since this effect has become apparent to us. Since 1997, 11 States expanded their programs to make families at 300 percent of the poverty level or higher eligible for SCHIP. That is the problem, that we are going up, rather than finding those kids in the lower income bracket.

When Secretary Leavitt tried to do something about that, and on August 17 of last year issued his crowdout directive to try to cover the low-income kids first, Members of this body objected. I will predict that what will happen is that it is likely Secretary Leavitt's directives are going to be rescinded because what they try to focus on are the low-income kids, rather than simply allowing more higher income kids to be covered.

If that happens, then the entire crowdout issue falls directly in our lap. If we do not have language to deal with it, such as that which I am proposing in my amendment, then not only will the bill become far more expensive, not only will fewer families be covered by private insurance with the attendant consequences there, but we will still have the problem of the low-income kids who are not covered and who have not been found.

We will be speaking more on this amendment before we have the vote on it a little bit later on this afternoon. I will at that time deal with a couple of other points that I want to make.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I rise today in strong support of the Children's Health Insurance Program, and the fact that we will be adding 4 million children for a total of 10 million American children from families predominately who are low income, who have parents who are working but do not have insurance, and have a very difficult time going into the private sector and paying very high premiums to try to be able to cover their children.

We do not want families choosing between keeping the lights on and keeping the heat on, food on the table, and whether their children can get health care. And for too many families in America right now, that is what is happening.

So I am pleased to be a part of this, to know we have a President who will enthusiastically and quickly sign this bill as one of his first actions. I think it will be very exciting to see that, after having worked so hard on a bipartisanship basis with colleagues to pass not once but twice children's health insurance, and to have it vetoed by the former President.

This is a real opportunity for us. I certainly thank Chairman BAUCUS and his staff for all of the work, and also the work of Senator ROCKEFELLER and Senator GRASSLEY and Senator HATCH, who are expressing concerns, but there has been a tremendous amount of bipartisan work that has gone on.

Frankly, the bill we have in front of us is very much the bill that we worked on together in a bipartisan way and brought to the floor in the past. It was a compromise. There are things that, frankly, if I were doing this by myself, I would want to go back and change if we were not keeping to the bipartisan agreement. We were originally talking about adding more children, a larger pricetag of $50 billion. I would have been very happy to go back to that number.

But, again, in agreeing to work within the confines of the bipartisan agreement from last session to be able to move it quickly, we did not do that. Also, there are certainly elements relating to low-income adults that I would like, coming from Michigan, to revisit. But we have not done that.

So I think there has been a tremendous good-faith effort to operate within the framework of the bill that was passed, worked on by leaders on both sides of the aisle. We have a wonderful opportunity right now to do something very important for the children of Michigan, the children of Oregon, the children all across this country.

There are very important changes from the current program that we are adding in this bill, making improvements in outreach and enrollment. Our colleagues on the other side of the aisle have talked about concerns about not having enough outreach to low-income children. Dollars are placed in this bill that would allow more of that to occur. I think that is very important.

Dental coverage. Mental health coverage. We have all heard the horror stories of children who had tooth problems or an abscess turning into a situation that in certain cases has caused death, tremendous tragedies. It is inexcusable that in the United States of America we would have children who could not get the dental care they needed or the mental health care they needed.

I am very pleased to have worked on the areas of health information technology where we are adding the ability to pilot a pediatric electronic medical record to make it easier to track children and to be able to have a more efficient way to gather the information about children's health records and to have it available for providers.

This bill is a huge step forward in so many areas. The Children's Health Insurance Program has been a success story since its beginning. I was pleased as a new House Member from Michigan in 1997 to have voted to pass the original Children's Health Insurance Program, and the companion program with it under Medicaid, which has reduced the number of uninsured children by over one-third. I think that is something we should feel very proud about.

These gains have occurred even as health care costs have risen, skyrocketing in many places, and employer-based coverage has, unfortunately, been declining because of the cost. I know in my home State of Michigan, the Children's Health Insurance Program and the partner program of Medicaid have made a huge difference in people's lives, a huge difference in a family's ability to care for their children, to be able to sleep at night and not worry about what happens if their children get sick.

Working families in Michigan have been losing their employer-sponsored coverage for over a decade now, unfortunately, increasing the need for an expansion of affordable health insurance options for children. A report recently released from the University of Michigan and Blue Cross-Blue Shield of Michigan found that between 2000 and the year 2006, employer-sponsored insurance decreased over 10 percent, meaning that we are talking about families who otherwise had insurance through their employer and now they do not. They then turned to the private individual marketplace. It is extremely expensive. And for many families, that is not an option. So they have turned to this wonderful public-private program called the Children's Health Insurance Program. In Michigan it is known as MIChild. This is a wonderful partnership that has helped families of working parents, folks who are working hard, but who are not poor enough to be able to qualify for health care under Medicaid for low-income individuals. They are not in a job or wealthy enough to be able to purchase health care themselves in the private sector, but they are working. They are working hard every day, maybe one job, maybe two jobs, maybe three jobs. But they do not have health insurance.

That is who we are focused on when we talk about the Children's Health Insurance Program. It is not about rich kids, as we have heard some discussion about. In Michigan, a family of four cannot make more than $40,000 a year to qualify for MIChild. Those families are working very hard, and that is not a lot of money to try to hold together a family of four and pay the mortgage, put food on the table, and then find some way to pay big insurance premiums.

Let me share a few stories from families in Michigan who have contacted me. Five-year-old Ryland has a heart condition that causes his heart to race. He had two unsuccessful surgeries for his condition when the family lived in Canada. When they returned to Michigan, there was no insurance company that would cover Ryland because he had a preexisting condition—a very common story for families.

Michigan used a portion of its funding to expand what we call Healthy Kids. Through that program, Ryland was able to receive a successful surgery.

Six-year-old Ethan has a serious heart condition called long QT syndrome, which causes seizures and blackouts and makes the heart race until it stops completely. Ethan had received insurance through his father's employer, but when his father died, his mother did not know what to do. Luckily, Ethan's mother was able to enroll him in the Michigan program MIChild. He was then able to get the care he needed to get help for his heart condition early on. It has made a tremendous difference in his life and in his mother's life.

This is not only the right thing to do, the moral thing to do; treating illnesses and chronic conditions early also is the economical thing to do. I do not want to put it in dollar terms because what is most important is the ability for children to be able to be healthy and live long lives and have opportunities for the future of this great country. But we all know that if a parent is forced to wait until it is an emergency situation and use the emergency room, or worse, in terms of waiting until a child is in a very serious illness, we are talking about huge costs. So this is the one time where we save money and save lives. We save money and we improve the quality of life for 10 million children in America through this program.

Sharing another story: Chad and his wife have two young children. He works for a small landscaping business with an off-season of 3 to 4 months. Sometimes the winter can be pretty long in Michigan. If they, Chad and his wife, purchased insurance through their employer, it would be an additional $300 a month which, unfortunately, was not affordable for them. But through MIChild children's health insurance, both of their sons were able

to get the inhalers they needed for their asthma. That significantly changed their life, their qualify of life.

Pam is a full-time preschool teacher and mother. Her monthly premiums of $384 a month would have taken up over 20 percent of her pay. She was not able to do that. Through MIChild she was able to get the specialized care she needed for her youngest daughter, who suffers from a rare seizure disorder.

Pam's story, in particular, illustrates the problems facing working families. According to the Commonwealth Fund, nearly three-quarters of people living below 200 percent of poverty found it difficult or impossible to afford coverage. That is what is happening to families all across the country.

The situation is even worse for individuals with chronic conditions such as asthma or diabetes. If they are able to purchase coverage in the private individual market—if—then costs are much higher.

I would like to remind my colleagues that reauthorizing the Children's Health Insurance Program is about all children—no matter where they live, whether they live in the city, the suburbs, or in rural Michigan or rural America.

The nonpartisan Carsey Institute found that in the vast majority of States a higher percentage of rural children live in poverty today than they did 5 years ago. This fact has translated into a higher need for health care like children's health insurance in rural areas. In fact, 32 percent of all rural children rely on the Children's Health Insurance Program and Medicaid compared to 26 percent of urban children. So this is something that certainly affects every part of my State—from the cities, to northern Michigan, to southwest Michigan, and every part of this great country.

Because of the importance of the children's health program, I urge my colleagues to put aside negative attacks and join to support a bill that is basically the same bill we worked on together in a bipartisan way that we brought to the floor in the last Congress that, unfortunately, was vetoed. But we now are in a position, using this document that was worked on with leaders across the aisle, to do something about which we can all be very proud. This bill will make a real difference in the lives of children and families across America, and it is a great way to start the new year.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. HAGAN. Thank you, Mr. President.

I rise today in support of the Children's Health Insurance Program, more commonly known as CHIP. I believe the expansion we are considering right now is long overdue. But I also must express my dismay at the way in which we are paying for the expansion in this program.

Since 1997, the Children's Health Insurance Program has been helping low-income and disadvantaged children access medical services to treat or prevent conditions that can affect their ability to lead a healthy and productive life. If this bill is not passed, we will be jeopardizing coverage for the roughly 10 million young children whom this bill helps, over 4 million of whom are currently without health care. With our economy in dire straits, job losses increasing and job opportunities decreasing, and with the rising cost of health care, the staggering thought of 10 million young children without the health care coverage they need is unacceptable to me and to many of my colleagues.

For every 1 point rise in our national unemployment—which we have seen a lot of to date—700,000 more children join the ranks of the uninsured. Importantly, 91 percent of all children covered under CHIP live in families with incomes at or below 200 percent of the Federal poverty level. In North Carolina, this would represent $42,000 for a family of four, with which they would then have to purchase their own insurance without the program.

Not passing this bill is simply not an option. But it is important to note, too, that the original CHIP legislation passed almost 12 years ago by a Republican Congress with the support of a Democratic President, and it was an extremely bipartisan measure. So, too, was an almost identical bill last year which was passed by two-thirds of the Senate and vetoed by the President. This program has widespread bipartisan support, and we should not allow differences over particular provisions of this bill to obscure that fact.

I commend Chairman BAUCUS and Senator ROCKEFELLER for the inclusion of several important provisions, including providing financial incentives for States, including my home State of North Carolina, to lower the number of uninsured children by enrolling eligible children in CHIP and Medicaid; creating an initiative within the U.S. Department of Health and Human Services charged with developing and implementing quality measures and improving State reporting of quality data—I think over time this data will improve healthy outcomes in our children; implementing initiatives to reduce racial and ethnic health care disparities by improving outreach to our minority populations; and prioritizing the coverage of children under this program, not the adults without children and others who in the past have been given waivers to participate.

But my vigorous support of this program itself does not mean I approve of the way this expansion is being funded. I vehemently believe the increase in the tax on cigarettes this bill includes is regressive and patently unfair to States such as North Carolina, which employs more than 65,000 people in jobs related directly to the tobacco industry.

While 30 percent of the adults earning less than $15,000 are smokers, only 15 percent of adults earning more than $50,000 are smokers. Through the funding mechanism we are putting in place in this bill, the result is this: We are asking for the lowest income households to pay for the health care for children in homes that make more than they do.

Under this bill as written, in my home State of North Carolina a package of cigarettes will ultimately cost $4.27, of which more than half—51 percent—of the price represents Government taxes. Furthermore, taxing cigarettes now is shortsighted and an unreliable source of funding for this program.

Since fiscal year 1999, the average price of a package of cigarettes has increased by 80.5 percent.

If we are going to include this provision on the assumption that taxing cigarettes reduces youth smoking and therefore increases the number of healthy, productive, and successful children in our country, why aren't we also taxing sugary soft drinks, junk food, and sweets? The obesity epidemic is so strong in children, yet the only funding mechanism right now is cigarettes. All of the above lead to an increase in conditions such as diabetes, heart disease, and high blood pressure in our children, which in turn we know leads to an increase in health care costs.

This is a matter of fairness. Taxing only tobacco could cost the State of North Carolina up to 3,000 jobs and $32 million to $36 million in revenue shortfalls for our State budget. While I applaud the desire to pay for the increased spending under this bill, which I think we should be doing, I believe singling out just one industry concentrates the impact in a few States, such as North Carolina, in a way that is fundamentally unfair. In 2009 alone, the 61-cent increase we are proposing in this bill—61-cent increase in taxes on cigarettes—adds up to $3.69 billion, and in 2010 that number increases to $7 billion from one industry alone.

I am a cosponsor of and I would like to voice my support for the amendment of my colleague, Senator JIM WEBB, which would reduce the proposed tax on cigarettes by 24 cents. As I have said before, the way in which this bill taxes only cigarettes is unfair, and I believe the proposed 61-cent increase per package is outrageous. It is my hope this amendment represents a compromise palatable to all sides in this debate.

I have outlined my complete support for this vital program but also my dismay in the way in which it is funded. But this is the bill in front of us, and this is what we are being asked to vote on. When I was a State senator, I worked hard to protect and expand North Carolina's SCHIP. As the mother of three children, I know what it is like when one of your kids wakes up in the middle of the night with an earache or a stomachache or worse. I have seen firsthand how important this program is and the unmet need for its services.

With the health and vitality of 10 million of our Nation's children on our hands, I cannot in good faith vote against this bill. Less than a month into my service here in the Senate, I am faced with a situation in which the health of millions of my State's children is at odds with a key industry in North Carolina. But, ultimately, I have to vote on behalf of the 10 million low-income and disadvantaged children whom this bill helps. In this economy, when families are being forced to choose between paying their bills and putting food on their tables, I cannot make it harder for them to keep their children healthy, safe, and cared for.

I cast this vote in the affirmative as a mother and as a former budget chairman for the State of North Carolina who knows how difficult it is for the State to close the gap in funding for this critical program when the Federal Government drops the ball and as a Senator who sees in this bill a chance for our neediest families and our most disadvantaged kids to get ahead in the face of the daunting odds they will no doubt face in their future.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I compliment the Senator from North Carolina. She is doing what a good Senator should do. First, she is defending the interests of her State. She is here representing the State of North Carolina, and she is doing an excellent job, pointing out some of the problems this bill contains for constituents in her State of North Carolina. But she also is looking at the larger picture, too, and the status of low-income children. It is a classic case that many of us face in the Senate. It is balancing interests and what is most important. It is not an easy decision. But I highly compliment the Senator from North Carolina for such articulation in expressing the views of constituents in her State and the interests of her State but also recognizing it is probably not right to deprive 10 million uninsured, lower income children of health insurance. So I compliment the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, if it is OK with my colleagues, I would like to give a short statement as in morning business and then give a longer one on the Kyl amendment. Is that OK?

Mr. BAUCUS. Mr. President, yes, that would be fine.

Mr. GRASSLEY. I thank the Senator.

Mr. President, first of all, I ask unanimous consent to speak as in morning business for a few minutes.

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

(The remarks of Mr. GRASSLEY are printed in today's RECORD under ''Morning Business.'')

AMENDMENT NO. 46

Mr. GRASSLEY. Mr. President, I wish to speak on Kyl amendment No. 46, named after Senator KYL from Arizona.

I strongly support the amendment that has been offered by Senator KYL. This is to the children's health insurance bill. This amendment would reinstate the crowdout policies that were agreed to by both sides in the bipartisan children's health insurance bills that we debated in the Senate in 2007. For reasons that I cannot fathom, this important section of the bill was dropped this year.

A high incidence of crowdout is problematic for many reasons. Before we go any further, I wish to make sure it is clear what the term ''crowdout'' means. Crowdout can have many meanings, in fact, so let me elaborate.

The crowdout we are referring to is when a family already has health coverage for their child and they cancel that policy to put them on a government program. This is referred to as crowdout with the idea that when the government comes in and offers taxpayers subsidized health coverage, it crowds out the coverage that was already there in the first place. This is a bad thing when it happens for a number of reasons, so I will go into those reasons.

First of all, crowdout makes it more difficult for employers to offer health insurance coverage. It especially impacts small employers who may be unable to meet health plan participation requirements. It has implications for the cost of coverage for those who have private plans because it removes a large number of young and healthy individuals from the risk pool, thus spreading the cost of high-risk individuals across smaller and, in most cases, older pools.

The second reason crowdout is bad is it inappropriately uses taxpayers' dollars to fund coverage that could have been provided by an employer. Individuals either leave coverage that had been funded in part by their employer or do not enroll in plans offered and subsidized by their employer to enroll in a private plan. When this occurs, the employer contribution to those plans is replaced by taxpayer dollars.

So crowdout is bad because it crowds out health coverage that was already there. It means taxpayer-subsidized coverage is gradually creeping in and taking over the market. But it is also bad because it is a waste of taxpayers' money. That is what we ought to emphasize because even though this bill meets a good goal of millions of more kids being covered, the question is, are we making the best use of taxpayers' dollars because there are another several million out there we ought to be covering. So when we are incentivizing people leaving private coverage for taxpayer support, then that money isn't available for the millions of people who aren't being covered.

When crowdout happens, it means the Federal taxpayers are being told to pay for coverage for someone who already had coverage. If that child already had coverage, then it goes without saying this child was not uninsured.

Remember the whole problem is when the taxpayers end up paying for coverage that was already there. So the more the children's health insurance programs are allowed to expand to high incomes, the bigger the problem of crowdout becomes.

The focus of this bill should be covering the millions of uninsured kids we have in America with emphasis on the lower the income, the more rationale there probably is for covering kids.

Crowdout is also a bigger problem when the children's health insurance programs try to cover higher income kids. It is easy to see why. Children who live in families with higher incomes are much more likely to have access to private coverage. It means more taxpayer dollars being spent on kids who already have coverage, and it means fewer dollars to cover the lower income kids who are still uninsured. So it is backwards when this happens.

When scarce taxpayer dollars are used to pay for coverage for someone who wasn't uninsured in the first place, this is a complete waste and a mismanagement of scarce resources, and it is a waste of scarce Federal dollars at a time when we cannot afford to do that. It also means one less dollar that could have been used to cover a child who doesn't have any health insurance whatsoever.

The policies that Members on both sides of the aisle agreed to in both of the bipartisan children's health insurance bills we debated in 2007 had a very good policy to minimize crowdout. First of all, those bills—the similar children's health insurance bills that were debated and passed in 2007—had very good policies to minimize this problem we refer to as crowdout. First of all, those bills set out a process in place to study the issue of crowdout. It asked the Government Accountability Office to do a report for Congress describing the best practices that each of the 50 States are using to address the issue of crowdout and whether things such as geographic variation or family income affects crowdout. The provision eliminated in the bill before the Senate—and this is this year, in 2009—also would require the Institute of Medicine to report on the most accurate, reliable, and timely way to measure the coverage of low-income children and the best way to measure crowdout. That provision was eliminated in this bill.

Based on these recommendations, the Secretary of Health and Human Services was required to develop and publish recommendations regarding best

practices for States to address crowdout. The Secretary was also required to implement a uniform standard for data collection by States to measure and report on health coverage for low-income children and crowdout.

The bipartisan crowdout policy of 2 years ago would also require States, having received the recommendations from the Secretary, to describe how the State was addressing the children's health insurance program crowdout issue and how the State was incorporating the best practices developed by the Secretary. The crowdout policy in both bipartisan bills 2 years ago included an enforcement mechanism to hold States accountable for minimizing crowdout when they expand to higher income levels.

This is a very important issue because as we learned from the 2007 report from the Congressional Budget Office, crowdout is a particularly acute problem in children's health insurance programs because crowdout occurs more frequently at higher income levels.

The Congressional Budget Office report also concludes that:

> In general, expanding the program to children in higher income families is likely to generate more of an offsetting reduction in private coverage than expanding the program to more children in low-income families.

I wish to emphasize for the public at large—my colleagues know this—the Congressional Budget Office is a nonpartisan, fiscal expert. So this is not a partisan issue of that Congressional Budget Office report.

Going on to refer to the Congressional Budget Office, that office estimates that:

> The reduction in private coverage among children is between a quarter and a half of the increase in public coverage resulting from SCHIP. In other words, for every 100 children who enroll as a result of SCHIP, there is a corresponding reduction in private coverage of between 25 and 50 children.

That is the end of the quote from CBO.

Therefore, under both bipartisan bills, the Secretary, using the improved data mechanism, would determine if a State that was covering children over 300 percent of poverty was doing a good job of covering low-income children. That is to emphasize the point: What was the purpose of SCHIP in 1997? To cover low-income kids who never had any coverage. So you spend a lot of time covering higher income families, and you have less money then to cover low-income kids, and then you have the crowdout that exacerbates that problem.

If it was determined that a State was not doing a good job covering low-income children, then the State will not be able to receive Federal payments for children over 300 percent of poverty. So here there is kind of a sense that we are not arguing if you want to cover people above 300 percent, but, by golly, as a State, you aren't doing a good job of taking care of the low-income kids—where the problem was and why we passed the bill in the first place. You shouldn't be covering people over 300 percent of poverty.

This crowdout policy in both bipartisan bills of 2007 would have worked to minimize crowdout by making sure the States are staying focused on covering low-income kids. So it is a very important issue, and it is one on which we worked together on a bipartisan basis.

There was a lot of debate about crowdout in 2007 when we had extensive discussions about the Children's Health Insurance Program. Everybody recognized this to be a very big problem. So this is why I am so entirely baffled as to why my Democratic colleagues would abandon a provision they helped develop in a bipartisan bill 2 years ago. I don't know why they would want to strike such an important part of the bill and one that also helps blunt sharp criticism of the bill when it allowed States to expand eligibility to 300 percent of poverty.

The bill before us now allows expansion to even higher and higher income kids.

As the Congressional Budget Office says, the crowdout problem is going to be even worse under this bill than it is already.

According to the Congressional Budget Office table detailing estimates of enrollment based on this bill, 2.4 million children will forgo private coverage for public coverage. This is a very troubling number. The fact that the Senate bill does not address this problem and goes back on policies that were worked out on a bipartisan basis is problematic.

I hope Members will reevaluate their opposition to policies to reduce crowdout and to vote in support of the amendment I have been talking about that my colleague, Senator KYL from Arizona, has offered.

We need to do the right thing here. We need to keep the Children's Health Insurance Program focused where it first started out in 1997 on lower income kids, for sure, in the case of a handful of States covering more adults than they do even kids.

We need to prevent scarce taxpayer funds from being used to pay for kids who already have health coverage. We need to put this bipartisan policy that we had in two bills in 2007 back in this bill.

I urge my colleagues to support the Kyl amendment and do just that.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The senior Senator from Montana.

Mr. BAUCUS. Madam President, the Children's Health Insurance Program Reauthorization Act of 2009 will extend the Children's Health Insurance Program to cover more than 4 million additional children whose parents work but cannot afford insurance on their own.

These low-income working families make too much to qualify for Medicaid, but they cannot afford private insurance. Ninety-one percent of the children covered by the State Children's Health Insurance Program live in families making less than twice the poverty level.

Let me repeat that. Ninety-one percent of the children covered by this program live in families making less than twice the poverty level. That is not very much. These are the working poor. Ninety-one percent of the kids covered by this program live in families who are working poor. Let's not make perfect the enemy of good. Ninety-one percent is pretty good. It is not 100 percent. It is 91 percent. That is pretty good.

I know some of my colleagues are concerned that this bill will cause individuals to drop their private coverage in order to join the Children's Health Insurance Program. Around here that is called crowdout; that is, leaving private health insurance coverage to move over to the Children's Health Insurance Program.

The fact is that any attempt to reduce the number of uninsured will inevitably result in some level of substitution of existing coverage. It just happens. The Medicaid Program—not many, but some families who may have had private insurance, as expensive as it is, decided Medicaid is a little bit better, and they chose Medicaid. As with every public program, it happens.

The next question is, what do we do to minimize too much of it? What is the right policy? Where do we draw the line?

Clearly, we want kids to have health insurance. We want it done in an efficient way, a way that makes sense that is good public policy but not do it in a way that disrupts the private health insurance market. But there is going to be some reduction in private coverage when kids leave the private health insurance market to go to CHIP.

Why would a family want to do that? I can think of several. One is the private coverage is not very good. The premiums are very high. The benefits are pretty low. It is not good. It costs a lot, particularly when we are talking about low-income families. It may not cost quite as much, it may not be quite as much of a burden on someone making $45,000, but it is going to be a big burden on somebody making $20,000 $30,000, $40,000, $50,000. They have to pay the food bills, make the mortgage payments. They have a car payment. You name it. It is expensive to also pay for private health insurance on top of all that.

I can very much understand some people—we are talking about low-income families now—think it makes more sense to maybe try not to pay those health insurance premiums but, rather, go on the Children's Health Insurance Program.

Let's remember, SCHIP is optional. It is up to the States. States can set the levels they want. That is their

privilege. That is their option. This is not an entitlement program. Some people think this is an entitlement program. It is not. It is a block grant program. What does that mean? That means every several years, Congress reauthorizes the program, allocates a certain amount of dollars, and distributes them through a formula to the States, and it ends after a certain period of time. This is a 4½-year authorization. If you want to participate in this program, you have to set up your own match rates. Uncle Sam will give you more than half of it, but you have to come up with your own match rates. If they want to set income eligibility levels a little higher because they are a State with higher income than other States, that is their privilege, that is what they should do, that is the State's option. It makes sense to me that we should formulate policy to try to draw a line that is fair—fair to States, fair to kids.

This legislation also recognizes the problem—if it is a problem—of kids leaving private coverage to go to the Children's Health Insurance Program. What do we do? A couple things. One, we make bonus payments to States that focus more on low-income kids. If you have a program in your State and you show you are putting out an extra effort to help low-income kids, you get a bonus. That is very good because that means with lower income people, there is less likely going to be this so-called crowdout.

We also give premium assistance. What is that? We tell States, you can take some of your money and help people pay their private health insurance premiums so they stay on private insurance instead of moving over to the Children's Health Insurance Program. So this bill recognizes the issue that some say is extremely important, namely, we give States the option to provide dollars for premium assistance, that is dollars to families to help them pay their health insurance premiums. That is only fair.

This is complicated. We are a big country. We have different States with different income levels. And we are a Federal system. We have Uncle Sam and we have States. It is very complicated. It is our job to try to find a way to put it all together in a way that is fair and makes sense.

The bottom line is what is fair and makes sense is give a little priority to the kids. Let's find some way to help low-income kids in the country, as we are still trying to be sensitive to concerns of States and concerns of the private health insurance industry.

I believe it makes eminent sense for us to not adopt the amendment offered by the good Senator from Arizona. What does that do? That amendment basically tells States to try to affirmatively find ways to restrict coverage which will have the effect of kids not getting off private health insurance. Do all the things you can to prevent kids from getting off private health insurance. That tilts the balance way too far. It tilts away from the kids. The goal here is kids. We want kids to get the best health insurance possible.

What this comes down to is the need for health reform in this country. We need to reform our health system. When we do, when we address the 46 million, 47 million Americans who do not have health insurance and find ways to make health insurance work for people, then this so-called issue will not be such because people will have the ability to go to the Children's Health Insurance Program or private health insurance that works.

Our legislation, if we pass it, will include health reform so the individual market makes sense, so there is no discrimination in the individual market, so the insurance company cannot discriminate on the basis of health, history, age, and other bases which health insurance companies now utilize to drive up premium costs for people trying to buy into the individual market. That was a guaranteed issue. That is the goal we are striving for, and the insurance companies know that makes sense.

I have talked with many of their CEOs. They want to move down that road. They know it is right. Even though it will change their business model, a model from cherry-picking to one of guaranteed issue, they will have more volume, they will make it up because everybody will have health insurance. They will sell more health insurance policies and give subsidies to people who cannot afford health insurance. That is part of the plan. We are not quite there yet. We have a ways to go. Then this will not be the issue that is raised today, and even today I think it is a bit of a red herring. I don't think that is what is going on here. What is going on here is some people do not want—I hate to put it this way—do not want to use Government funds to give low-income kids health insurance. That is basically what is going on here. I do not want to overstate that point, but I think it is obvious.

Bottom line, I think the amendment should be defeated. Sixty-nine Senators have already voted for this legislation, which did not include this amendment. Sixty-nine Senators in 2007 voted for this very same Children's Health Insurance Program which did not include this amendment. If they could vote for it and it did not include this amendment, I would think those who are here could vote for it again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, I don't know if we are going back and forth. I know Senator MURKOWSKI is here. I have about 5 or 6 minutes.

I rise in support of the legislation before us to renew and improve the Children's Health Insurance Program. I begin by commending Chairman BAUCUS for his work on this legislation, not just this year, but so many years before. We brought this bill to the floor in 2007. We have had successful votes, a tribute to the chairman's leadership. I know at the same time he is working on the stimulus package, which is critically important to our economy. I personally thank him and commend him for all his efforts.

This bill is virtually identical to the legislation that I previously voted for on two occasions. Indeed, I voted, along with a large bipartisan majority, for this legislation in 2007. So I am hopeful Congress will act swiftly in a bipartisan manner to present this bill to President Obama for his signature. Uninsured children have already waited for that moment for far too long.

This bill invests $32.8 billion to extend and expand CHIP through fiscal year 2013. According to the Congressional Budget Office, it will preserve coverage for 6.7 million children and expand coverage to an additional 4.1 million uninsured children. In addition, the bill facilitates enrollment and improves benefits by requiring dental coverage and mental health parity.

For my State of Rhode Island, this bill is absolutely critical because it would end the persistent funding shortfalls that have required 11th hour stopgap measures. Over the years, I have been able to secure $77 million in additional funding to cover these shortfalls, but these efforts at the very last minute are not something that can be sustained indefinitely.

This bill allocates funding based on actual spending and provides a contingency fund for shortfalls. As a result, Rhode Island's allotment, the amount of Federal funding available for the State to draw down, will increase from $13.2 million to $69.5 million. This is the highest percentage increase of any State. This will preserve coverage for about 12,500 children enrolled in RIte Care, which is our Children's Health Insurance Program, and allow the State to expand SCHIP coverage.

With the current economic crisis, this bill could not be more timely. As parents lose their jobs, they and their children will lose their health coverage. Nationwide, the rise in unemployment has caused 1.6 million children to lose employer-based health insurance. In Rhode Island, the unemployment rate is now in double digits at 10 percent. Behind this number are real families who are struggling to pay their medical bills and whose children may be forced to forgo doctor visits, medicines, and immunizations they need to lead healthy, productive lives.

Recently, Rhode Island was forced to make the very difficult choice of dropping coverage for 1,300 children who are legally here because there was no Federal match. For many years, the State had provided coverage for these children using State funds alone. This bill could result in expanded coverage by providing Federal funds for these children who are legally here within the United States.

It also includes important provisions to increase enrollment of people who

are eligible for both the CHIP funding and Medicaid funding. The bill allows States to use Social Security numbers to verify citizenship, provides grants to States for outreach activities, and provides bonus payments for the cost of increased enrollment in Medicaid.

However, I must point out, Rhode Island may not be able to fully benefit from these latest provisions as they relate to Medicaid. In the waning hours of the Bush administration, the State agreed to an unprecedented cap on total spending. The cap is based on projections that do not factor in potential increases in Medicaid enrollment resulting from this legislation. As a result, the cap could prevent the State from taking up the option to cover legal immigrant children and pregnant women and could discourage the State from renewing its outreach efforts, even though these were longstanding policies in the State prior to the economic downturn. I have strong concerns about the cap because there are too many unknowns about how it would interact with both this bill and other efforts to expand Medicaid coverage.

States are struggling to grapple with rising health care costs, enrollment is increasing, and indeed the Federal Government, businesses, and families are also burdened by rising costs and the absence of any discernible health care system. It is clear there can be no economic recovery in the long term unless we at last confront the critical challenge of comprehensive health reform. The time has come to guarantee affordable, quality health care to all Americans. This bill is an important step forward and a downpayment on this effort.

Let me finally emphasize how critical this bill is to the children's health care program. It will dramatically increase the share that Rhode Island is entitled to and it will prevent the eleventh-hour scramble to fund shortfalls in the State. On the Medicaid side, I hope the State is able to use these additional authorities to enroll more children who could, in fact, receive help from this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Ms. MURKOWSKI. Madam President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 46, offered by Senator KYL, is the pending amendment.

AMENDMENT NO. 77

Ms. MURKOWSKI. Madam President, I ask unanimous consent to lay aside the pending amendment, and I call up amendment No. 77.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Ms. MURKOWSKI], for herself, Mr. SPECTER, and Mr. JOHANNS, proposes an amendment numbered 77.

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 provide for the development of best practice recommendations and to ensure coverage of low income children)

At the appropriate place, insert the following:

SEC. ___. DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS AND COVERAGE OF LOW INCOME CHILDREN.

(a) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Section 2107 (42 U.S.C. 1397gg) is amended by adding at the end the following:

''(g) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with States, including Medicaid and CHIP directors in States, shall publish in the Federal Register, and post on the public website for the Department of Health and Human Services—

''(1) recommendations regarding best practices for States to use to address CHIP crowd-out; and

''(2) uniform standards for data collection by States to measure and report—

''(A) health benefits coverage for children with family income below 200 percent of the poverty line; and

''(B) on CHIP crowd-out, including for children with family income that exceeds 200 percent of the poverty line.

The Secretary, in consultation with States, including Medicaid and CHIP directors in States, may from time to time update the best practice recommendations and uniform standards set published under paragraphs (1) and (2) and shall provide for publication and posting of such updated recommendations and standards.''.

(b) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 601(a), is further amended by adding at the end the following new paragraph:

''(12) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

''(A) DETERMINATIONS.—

''(i) IN GENERAL.—The Secretary shall determine, for each State that is a higher income eligibility State as of October 1 of 2010 and each subsequent year, whether the State meets the target rate of coverage of low-income children required under subparagraph (C) and shall notify the State in that month of such determination.

''(ii) DETERMINATION OF FAILURE.—If the Secretary determines in such month that a higher income eligibility State does not meet such target rate of coverage, no payment shall be made as of April 30 of the following year, under this section for child health assistance provided for higher-income children (as defined in subparagraph (D)) under the State child health plan unless and until the Secretary establishes that the State is in compliance with such requirement, but in no case more than 12 months.

''(B) HIGHER INCOME ELIGIBILITY STATE.—A higher income eligibility State described in this clause is a State that—

''(i) applies under its State child health plan an eligibility income standard for targeted low-income children that exceeds 300 percent of the poverty line; or

''(ii) because of the application of a general exclusion of a block of income that is not determined by type of expense or type of income, applies an effective income standard under the State child health plan for such children that exceeds 300 percent of the poverty line.

''(C) REQUIREMENT FOR TARGET RATE OF COVERAGE OF LOW-INCOME CHILDREN.—The requirement of this subparagraph for a State is that the rate of health benefits coverage (both private and public) for low-income children in the State is not statistically significantly (at a p=0.05 level) less than 80 percent of the low-income children who reside in the State and are eligible for child health assistance under the State child health plan.

''(D) HIGHER-INCOME CHILD.—For purposes of this paragraph, the term 'higher income child' means, with respect to a State child health plan, a targeted low-income child whose family income—

''(i) exceeds 300 percent of the poverty line; or

''(ii) would exceed 300 percent of the poverty line if there were not taken into account any general exclusion described in subparagraph (B)(ii).''.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1) or this section this shall be construed as authorizing the Secretary of Health and Human Services to limit payments under title XXI of the Social Security Act in the case of a State that is not a higher income eligibility State (as defined in section 2105(c)(12)(B) of such Act, as added by paragraph (1)).

Ms. MURKOWSKI. Madam President, I am speaking on the floor about this very important issue of how we provide for the best coverage, the maximum coverage, for the rising number of Americans without health insurance because we all recognize this is a problem. According to the most recent data, 47 million Americans today are not receiving proper medical care, so CHIP comes in—the Children's Health Insurance Program.

This program has been an exceptionally important means of providing the most vulnerable of our population—our children—with health care. And we all know that when our children are sick, it is not just the child who is impacted, it is the whole family—it is the parent who misses time from work to care for their child because they don't want to take their child to school for fear that the bug will spread. So the social and economic impact of a sick child goes well beyond the need for cough syrups and bandaids, and the impact in my State of Alaska is felt even greater within our Native communities.

I think it is fair to say SCHIP has always been a bipartisan bill. Since its inception back in 1977, with the then Republican-controlled Senate, working with Democrats in Congress and a Democratic administration, we were able to ensure that the poorest of our children have access to health insurance. Since then, we have seen continued success with this program, with Republicans, Democrats, and Independents alike rejoicing in a health care bill that has broad bipartisan support and that has been able to effectively cover our poorest children.

I supported both of the CHIP bills that passed in 2007. It expanded the SCHIP eligibility to 300 percent of the Federal poverty level—the FPL—which is $66,600 for a family of four. But I will

tell you I think the bill we have in front of us is not even close to what we passed in 2007. And quite frankly, I am not sure why a bill that enjoyed such broad bipartisan support was gutted and filled with provisions which, as we have seen on the floor today and yesterday, have been pretty controversial. I am perplexed that the decision has been made to go in a different direction than the direction we took when we overwhelmingly passed this legislation before.

There are some provisions, particularly with regard to ensuring that our lowest income children are covered first, that have made this bill difficult for some to support, even for some of those Senators who spearheaded the SCHIP bills in the past. So I would like to offer an amendment that I believe will improve this bill in a significant way and will reassure many of us who are concerned about how we ensure that the lowest income children will be covered.

I am offering an amendment to the CHIP bill that has been cosponsored by Senator SPECTER, Senator JOHANNS, and Senator COLLINS. Senator SPECTER, Senator COLLINS and myself were all on the previous SCHIP bills. Senator JOHANNS, of course, is new to the Senate but a former Governor.

Let me describe it quickly, briefly, because this is a pretty simple amendment. You might say it sounds pretty similar to what we had before us in the past, and you would be correct. The amendment includes three basic principles that I believe are essential to the continued success of the CHIP program.

First of all, it says we need to know and we need to have published information on how States are addressing the best practices for insuring low-income children—those children from families who are earning less than 200 percent of the Federal poverty level.

So let's figure it out. We want to know, we need to publish it, we need to accumulate the data, as to what States are doing to make sure they are covering the poorest children. When we know what it is that other States are doing to be successful, let's share that with other States so they, too, can use similar types of approaches to make sure we are not losing any of these children through the cracks; that we are not overlooking them. Let's share these best practices.

The second piece of this amendment says we also need to know and have published information on what factors are attributing to kids over 200 percent of FPL that are enrolling in their State CHIP. Of course, this goes back to the crowdout issue that has been discussed a great deal on the floor this afternoon. What is it? What are the factors? Let's know and understand what it is that would be causing those families who may have private insurance—what is causing the push then to enroll in their State's CHIP. Again, let's try to understand better what is going on.

I can't imagine there is anything controversial with either the first or second part of this amendment.

The third part of the amendment says that if a State wants to exceed 300 percent of the Federal poverty level for CHIP, they will have the flexibility in working with the Secretary of Health and Human Services to ensure that the State first demonstrates an enrollment of at least 80 percent of the children below 200 percent of FPL. So we are saying: OK, if you want to go above 300 percent, you are certainly able to do so, but please first demonstrate to us that you have covered 80 percent of your children who are below 200 percent of the Federal poverty level.

Now, we had some target language out here earlier, and there was actually target language in both CHIP I and CHIP II. This standard, if you will, of 80 percent, is a much less rigorous and, quite honestly, a much more obtainable standard. If you look through the list of States, there are various FPLs for each State and then what their percentages are in terms of how many of their children they are enrolling. I think, if you look to the State of Michigan, you are at 200 percent of FPL. In your State, you are doing actually very well in terms of enrolling your children. You are about 90 percent. So you are in pretty good shape.

So for purposes of what I am laying out here, the State of Michigan is absolutely unaffected. You can move forward. You don't have any concern because you have done the job of insuring at least 80 percent. In fact, you have gone to 90 percent.

So this is a target we are setting that I believe is reasonable and achievable and workable. So what we are asking, again, is if you are going to exceed 300 percent of FPL—if Michigan wanted to go above 300 percent, you could because you have demonstrated that you have covered at least 80 percent of your children below the 200-percent Federal poverty level. If you haven't, then no Federal payment match will be made for those individuals over 300 percent FPL, unless and until the Secretary establishes that the State is in compliance with these regulations in an amount of time not to exceed 12 months. Again, if you are a State that has already established you have covered that target rate of 80 percent of your kids, you could go above the 300 percent level.

My amendment is pretty straightforward. It allows the Secretary to ensure that what we have is a built-in safeguard—a safeguard measure—for at least 80 percent of the poorest of our children to be enrolled in SCHIP or a Medicaid expansion program before children from higher income families—those earning above 300 percent—are enrolled. This amendment provides flexibility to the States in working with the Secretary of Health and Human Services to ensure that we are protecting our poorest kids by insuring them before we expand to higher income populations.

I submit this is a very reasonable provision. Part of the components of this amendment we have seen in CHIP I and CHIP II, which a broad bipartisan group of Senators voted to back. I think it is reasonable, I think it would be a good improvement to this bill, and I think it would help to allay some of the concerns that we are not working first to address the enrollment of at least 80 percent of our more needy children.

With that, I would certainly encourage my colleagues to look carefully at my amendment, I ask for their support, and I yield the floor.

Mr. BAUCUS. Madam President, there is not a time agreement, so I don't have to yield, but as a courtesy, as chairman, I yield for the Senator from New Mexico.

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

Mr. BINGAMAN. Madam President, I thank my colleague from Montana and congratulate him for his leadership on this very important piece of legislation.

I come to the floor to offer my strong support for the Children's Health Insurance Program reauthorization. This is legislation that has come out of the Finance Committee which Senator BAUCUS chairs. It will ensure that 13 million American children will either maintain health care coverage or receive that coverage for the first time.

We worked very hard in the committee to develop the best bill we could. It is a major step forward for our Nation. As many Americans face grave economic uncertainty, it is critical we move quickly to pass this legislation and send it to President Obama for his signature.

The State Children's Health Insurance Program, or CHIP, represents a partnership between the States and the Federal Government. It works by providing States with an annual allotment at an enhanced matching rate for health care coverage for low-income residents. Since CHIP was created in 1997, it has been extremely successful. In fact, despite the fact that private coverage has eroded significantly since CHIP was created, many health care experts believe this program is the primary reason the percent of low-income children in the United States without health coverage has fallen by about a third during that same period.

CHIP is particularly important to my home State of New Mexico. The people in New Mexico have a very difficult time acquiring health insurance. We remain the second most uninsured State in the Nation. Currently, more than 30,000 New Mexicans depend on CHIP for their health coverage. Under this legislation, my State would receive $196 million for CHIP this year. This represents a 277-percent increase over the State's current CHIP allotment. This represents the fourth largest percentage increase of any State in the country.

With this additional funding, tens of millions of additional low-income New

Mexico children—and adults—would have access to health care for the first time. This legislation also corrects an inequity in the Federal law that, despite our very high uninsurance rate which we have in New Mexico, this inequity has prevented New Mexico from covering many of our children through Medicaid. It has required our State to return more than $180 million to the Federal Government since 1997.

The bill also includes modest improvements to requirements that have made it very difficult for New Mexicans to prove they are in fact American citizens and, therefore, eligible for Medicaid. The State estimates that approximately 10,000 New Mexico children who are currently U.S. citizens have been denied health insurance because of these requirements. I have offered an amendment to make further improvement in this provision to ensure that U.S. citizens are not inappropriately denied the health insurance to which they are entitled.

I am glad to report that the legislation also includes a provision I have championed for many years that will allow States to automatically enroll children in CHIP if they have already been deemed eligible for another public program with comparable income standards, such as the National School Lunch Program or the Food Stamp Program. This provision is often referred to as ''express lane,'' and it would help States use technology to cut through the bureaucracy that all too often prevents Americans from receiving health benefits. Health experts tell us that express lane is one of the most important ways we have to reduce the number of uninsured Americans.

I also offered an amendment to clarify several of the express lane provisions in the bill. It is my hope that can be accepted as well.

The bill contains many other provisions that are important to me, such as a mandate to provide dental coverage for children receiving CHIP benefits, as well as a wrap provision, which I proposed during the committee markup, to allow children with private coverage who do not receive dental benefits to receive such benefits through CHIP.

The legislation also includes very significant improvements in the ability of States to perform outreach enrollment to Native American populations, as well as providing outreach funding to Promotoras and other community health workers. These people play a critical role in my State and throughout the country in reaching some of the most isolated populations.

Finally, the bill also protects the provision of mental health services to children.

As I mentioned earlier, I have worked hard on this bill, as have many of my colleagues. It is critical we move swiftly to get this to the President for his signature. Given the urgency we face, I am surprised by some of the opposition that has been expressed by my colleagues on the other side of the aisle. As I read this legislation, it is very similar to the bills that were strongly supported by both Democrats and Republicans in the 110th Congress. These bills passed with a filibuster-proof majority here in the Senate. Provisions in the bill before us today regarding income eligibility, regarding adult coverage, and the other issues being raised, remain more or less the same as in the bills that were strongly supported by Republicans in the last Congress. In fact, the most significant difference between the bill we are now considering and the bill we passed last year is the addition of a State option to remove the current 5-year ban for health care coverage for legal immigrant children and pregnant women. I hope the optional coverage for legal immigrants is not so objectionable to some of my colleagues that they would walk away from the millions upon millions of American children who receive care through this program.

Americans are struggling and our economy is in a very serious situation. The bill before us is urgently needed by many in this country. I hope my colleagues will support this important bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 58

(Purpose: To amend the Internal Revenue Code of 1986 to provide a revenue source through the treatment of income of partners for performing investment management services as ordinary income received for performance of services and reduce accordingly the tobacco tax increase as a revenue source)

Mr. WEBB. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 58.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WEBB] proposes an amendment numbered 58.

Mr. WEBB. I ask unanimous consent that further reading of the amendment be dispensed with.

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

(The amendment is printed in the RECORD of Tuesday, January 27, 2009, under ''Text of Amendments.'')

Mr. WEBB. Madam President, I offered this amendment yesterday first by saying, and I would reiterate today, that I firmly support the legislation that is before us. I have a great sense of appreciation for the Senator from Montana for all the work he and his staff have done to bring this legislation to the floor. I offer this amendment in an attempt to resolve what I believe are two issues of fundamental fairness. They go to how this program is going to be paid for.

The first is that the offset being used right now, the 61-cent-per-pack increase on cigarette tax, I believe—as does the Senator from North Carolina, as well as other Members I have discussed this issue with on the floor—that this is unfairly singling out one industry that has already been heavily taxed. Right now, tobacco is federally taxed at 39 cents per pack for this program and all 50 States and the District of Columbia also impose an excise tax on top of that tax. In Virginia that is a 30-cent tax on top of it. Our States, which are also undergoing a lot of difficulty in their economies, are considering raising that tax as well.

My grandmother used to say you can't get blood out of a turnip. I think we are about at the point with this particular industry, that we are getting as much out of it as possible, in a way that is inequitable to the industry—and not just to the industry but, as I mentioned yesterday, according to the Congressional Research Service, cigarette taxes are especially likely to violate horizontal equity. They are among the most burdensome taxes on lower income individuals, and so we have something of an anomaly here where we are levying a tax on a large proportion of people who are economically challenged in order to assist, with this CHIP program, others who are economically challenged. That to me seems a little bit anomalous.

The second issue of fundamental fairness, the ''pay for'' that I proposed in this amendment, is to tax carried interest, which is compensation based on a percentage of the profits that hedge fund managers make. My legislation would tax their compensation as ordinary earned income rather than the capital gains tax they presently pay.

This idea is not my own. President Obama campaigned in favor of changing the carried interest tax rates during his campaign. Yesterday I read from a variety of editorials of major newspapers. I will not go through those in detail, but the Washington Post in a masthead editorial 2 years ago said:

This is a make or break issue for Democrats. If they can't unite around this issue then they aren't real Democrats.

The New York Times, in a masthead editorial, said:

Congress will achieve a significant victory for fairness and for fiscal responsibility if it ends the breaks that are skewing the Tax Code in favor of our most advantaged Americans.

USA Today and the Philadelphia Inquirer had masthead editorials. Even the Financial Times, which is a conservative newspaper, editorialized:

This repair should be done at once.

That was 2 years ago.

In my view, taking this particular tax break, which characterizes earned income and calls it a capital gains with a much reduced tax, is an imbalance in our system. I am all for people making money. The American system is founded on entrepreneurship. But I am also for people paying their fair share.

I proposed this amendment that would provide partial relief from the cigarette tax. I still believe it would be

a good amendment, but I also can count votes and I do not think this amendment has a chance of passing, frankly. I know the Senator from Montana has questions about it. I would appreciate very much if the Senator from Montana could tell me his hesitation on this so we might work it out.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, first, I strongly commend and applaud the Senator from Virginia. He is doing what all good Senators do. He is representing his State. He is quite concerned about the 61-cents-per-pack tobacco tax to be levied, additional tax to be levied on cigarettes. Certainly his State has a big interest, as do several other State. I commend the Senator for what he is doing.

However, I must point out that this same provision passed this body twice before. It passed the House of Representatives twice before—both bodies—with large margins. It is, I think, understood by those who support the Children's Health Insurance Program that this is the proper way to pay for that program.

The alternative method of financing which the Senator recommends is one which I think many Members of this body, including myself, believe should be addressed. Those editorials to which the Senator referred have more than a grain of truth in them. Carried interest is something that must be dealt with and I think it will be dealt with in the context of tax reform later this year or next year. But clearly we will have tax legislation this year. We have to have tax legislation this year because of the expiration of certain very important provisions.

Add it all together, I commend the Senator but say to the Senator I do not think this is the proper time and place to bring up a very important issue, namely carried interest. But there soon will be a time that we will take up that very important issue. The Senator has my assurance that I look at it extremely seriously. I have spoken about this publicly, by the way, as have many others. But like a lot of issues, there is a time and place for everything and this is not the proper time and place but soon it will be. I commend the Senator.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 58 WITHDRAWN

Mr. WEBB. I appreciate the Senator's comments. Again, I would like to emphasize my respect for the leadership that he has shown in our caucus on all of these issues. I would also say, in my view, in terms of the tobacco industry, this is a Virginia issue, but in terms of both of these issues I believe they are larger issues of equity.

I have a concern for people across the country on both of those issues, but I do take the Senator's point. There is a time and place for everything. I would like to have seen the pay-for on this bill mitigated in terms of people who use cigarettes. I am a reformed smoker, like a lot of people in this body. I do not encourage people to smoke. But it is a legal activity, and there are certain protections that all businesses deserve.

At the same time, I do take the Senator's point. I appreciate his comments and his earlier remarks about the issue of carried interest. Keeping strongly in mind that we need to bring this legislation to a prompt conclusion, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I want to correct the RECORD. Not long ago I misspoke. I said a moment ago the substance of the Kyl amendment was not in the two previous children's health insurance measures that passed this body.

I was incorrect. The substance of the Kyl amendment was in the two bills to which I was referring. Why was the substance of the Kyl amendment in those two bills? Very simply because they were a response to the directive of President Bush on August 17. What was that, the August 17 directive? It basically was a directive by the President to States to develop policies to make it very difficult for people to leave private health insurance to move into the Children's Health Insurance Program.

That was Draconian. Frankly, it was so Draconian that we in the Congress adopted the substance of the Kyl amendment to moderate that directive because the directive was so Draconian. Well, times have changed. We have a new President now; there is not going to be an August 17 directive. It certainly will not be enforced. So there is no need for the so-called section 116 provision to which the Kyl amendment is referring.

So even though I misspoke; it was in those bills, I still firmly believe because of the new election, a new President, the August 17 directive will not be enforced, that we do not need that moderating language in the prior bill.

Accordingly, I will still vote for the underlying legislation.

I yield the floor, 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. SANDERS. 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. SANDERS. I rise in strong support of the SCHIP legislation. I find it amazing that we have spent so much time debating it. This SCHIP legislation would help more than 4 million children in this country get the health insurance they desperately need. But I should point out it leaves approximately 3 million kids still uninsured.

As you well know, the United States of America remains the only major country in the industrialized world where this debate would take place. We are spending weeks discussing an issue which every other country in the industrialized world has long resolved.

So if we pass this piece of legislation tomorrow, and I hope we will, 3 million kids still remain without health insurance. The common sense of insuring children is apparent to everybody because when kids are insured, when parents are allowed to bring their children to a doctor, when kids have access to medical care in a school, professionals can pick up the medical problems kids have so 10 years later they do not end up in a hospital with a serious illness and we spend hundreds of thousands of dollars trying to cure a child whose problems could have been detected when they were little.

This really is a no-brainer. Clearly, what we must do as a nation is move to a national health care program guaranteeing health care to all of our people, but a step forward will be passing this SCHIP legislation.

I think the American people are more than aware that our health care system is substantially broken. They understand not only do 46 million Americans have no health insurance, they understand even more are underinsured. They understand the absurdity of tying health care to jobs because when we lose our jobs, then we lose our health care.

I hear some of my friends saying: Oh, the American people do not want government health care. Well, you know what. Read the polls.

The American people do believe the U.S. Government should take the responsibility of providing health care to every man, woman, and child, and I hope as soon as possible we, in fact, do that. But not only do we have 46 million Americans, including many children—and that issue we are trying to deal with right now—who have no health insurance, what we are also doing, because of the waste and inefficiency in our current system, is we end up spending far more per capita on health care than the people of any other country.

I know the Presiding Officer is more than aware that General Motors spends more, for example, on health care than they do on steel in building automobiles. What kind of sense is that? So I hope, at a certain point—and I hope soon—we as a nation end up finally saying health care is a right of all people. The absurdity that one child in this country does not have health insurance is an international embarrassment. Let's go forward, and let's develop the most cost-effective way we can provide health care to all our people.

Now, here is the irony: that even if tomorrow we guaranteed health care to all our children, even if the next day we guaranteed health care to all our people, do you know what. That does not mean people are going to be able to find doctors or dentists. Our infrastructure, especially in primary care, is in

such a bad condition that we need to revolutionize primary health care in America.

We just had a hearing, chaired by Senator HARKIN, who has been very active in the whole issue of preventative care in the HELP Committee. This is unbelievable. We had a physician who is a professor of medicine at Harvard Medical School, in a State where presumably they have universal health care, and she cannot find a primary health care physician. A professor of medicine at Harvard Medical School cannot find a primary health care physician. That is how absurd this situation is.

We have over 50 million Americans today who do not have regular access to a physician. We have many more who cannot find a dentist. Meanwhile, if we were not depleting the medical infrastructure of Third World countries, bringing in doctors and dentists from those countries, our entire primary health care system would be in even worse shape than it is right now.

COMMUNITY HEALTH CENTERS

Madam President, I do wish to say a word about legislation we will be introducing next week—I am proud to tell you we have 15 original cosponsors; I hope we will have more in the next few days—which essentially begins to address the crisis in primary health care by significantly expanding a program Senator KENNEDY developed in the 1960s which has widespread support—not just from Democrats but from Republicans, not just from President Obama, who was a cosponsor of similar type legislation last year, but from Senator MCCAIN, who talked about community health centers during his campaign; and President Bush was very supportive of the concept.

So we have widespread support, and now is the time to go forward and say we will have a federally qualified community health center in every underserved area in America. By expanding the number of FQCHCs from about 1,100 to 4,800, at the end of the day, by providing primary health care, dental care, mental health counseling, and low-cost prescription drugs, do you know what we do. We save money. We save substantial sums of money because we keep patients out of the emergency room, we keep patients out of the hospital because we are treating their illnesses at an early stage rather than allowing them to become ill and then spending huge sums of money when they end up in the hospital.

I am very proud we have Senator KENNEDY as a cosponsor, and Senators DURBIN, HARKIN, SCHUMER, KERRY, BOXER, INOUYE, LEAHY, MIKULSKI, CASEY, CARDIN, BROWN, BEGICH, BURRIS, and WYDEN. I hope we will have more cosponsors.

This is legislation we can pass. This is legislation which has historically had bipartisan support because we all know primary health care—giving people access to doctors, dentists, low-cost prescription drugs—is the way to not only keep people healthy, it is the way to save billions and billions of dollars.

Let me conclude by saying I hope very much we support this SCHIP legislation. It will save us money by enabling kids to get to the doctor before their problems become much more acute. It is the right thing to do, and it is the beginning of the United States trying to join the rest of the industrialized world in saying health care must be a right of all people—all people—rather than a privilege of just the few.

I yield the floor and 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. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SCHUMER). Without objection, it is so ordered.

AMENDMENT NO. 79

Mr. BROWN. Mr. President, I ask unanimous consent to set aside the pending amendments and call up amendment No. 79.

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 Ohio [Mr. BROWN] proposes an amendment numbered 79.

Mr. BROWN. 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 strengthen and protect health care access, and to benefit children in need of cancer care or other acute care services)

After section 622 insert the following:

SEC. 623. ONE-TIME PROCESS FOR HOSPITAL WAGE INDEX RECLASSIFICATION IN ECONOMICALLY-DISTRESSED AREAS.

(a) RECLASSIFICATIONS.—

(1) Notwithstanding any other provision of law, effective for discharges occurring on or after April 1, 2009, and before March 31, 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to St. Vincent Mercy Medical Center (provider number 36-0112), such hospital is deemed to be located in the Ann Arbor, MI metropolitan statistical area.

(2) Notwithstanding any other provision of law, effective for discharges occurring on or after April 1, 2009 and before March 31, 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to St. Elizabeth Health Center (provider number 36–0064), Northside Medical Center (provider number 36–3307), St. Joseph Health Center (provider number 36–0161), and St. Elizabeth Boardman Health Center (provider number 36–0276), such hospitals are deemed to be located in the Cleveland-Elyria-Mentor metropolitan statistical area.

(b) RULES.—

(1) Except as provided in paragraph (2), any reclassification made under subsection (a) shall be treated as a decision of the Medicare Geographic Classification Review Board under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)).

(2) Section 1886(d)(10)(D)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)(v)), as it relates to reclassification being effective for 3 fiscal years, shall not apply with respect to a reclassification made under subsection (a).

SEC. 624. TREATMENT OF CERTAIN CANCER HOSPITALS.

(a) IN GENERAL.—

(1) TREATMENT.—Section 1886(d)(1)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(v)) is amended—

(A) in subclause (II), by striking ''or'' at the end;

(B) in subclause (III), by striking the semicolon at the end and inserting '', or''; and

(C) by inserting after subclause (III) the following new subclause:

''(IV) a hospital—

''(aa) that the Secretary has determined to be, at any time on or before December 31, 2011, a hospital involved extensively in treatment for, or research on, cancer,

''(bb) that is a free standing hospital, the construction of which had commenced as of December 31, 2008; and

''(cc) whose current or predecessor provider entity is University Hospitals of Cleveland (provider number 36–0137).''.

(2) INITIAL DETERMINATION.—

(A) A hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a), shall not qualify as a hospital described in such subclause unless the hospital petitions the Secretary of Health and Human Services for a determination of such qualification on or before December 31, 2011.

(B) The Secretary of Health and Human Services shall, not later than 30 days after the date of a petition under subparagraph (A), determine that the petitioning hospital qualifies as a hospital described in such subclause (IV) if not less than 50 percent of the hospital's total discharges since its commencement of operations have a principal finding of neoplastic disease (as defined in section 1886(d)(1)(E) of such Act (42 U.S.C. 1395ww(d)(1)(E))).

(b) APPLICATION.—

(1) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The provisions of section 412.22(e) of title 42, Code of Federal Regulations, shall not apply to a hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a).

(2) APPLICATION TO COST REPORTING PERIODS.—If the Secretary makes a determination that a hospital is described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a), such determination shall apply as of the first full 12-month cost reporting period beginning on January 1 immediately following the date of such determination.

(3) BASE PERIOD.—Notwithstanding the provisions of section 1886(b)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(E)) or any other provision of law, the base cost reporting period for purposes of determining the target amount for any hospital for which such a determination has been made shall be the first full 12-month cost reporting period beginning on or after the date of such determination.

(4) REQUIREMENT.—A hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a), shall not qualify as a hospital described in such subclause for any cost reporting period in which less than 50 percent of its total discharges have a principal finding of neoplastic disease (as defined in section 1886(d)(1)(E) of such Act (42 U.S.C. 1395ww(d)(1)(E))).

SEC. 625. RECONCILIATION AND RECOVERY OF ALL SERVICE-CONCLUDED MEDICARE FEE-FOR-SERVICE DISEASE MANAGEMENT PROGRAM FUNDING.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall provide for the immediate reconciliation and recovery of all service-concluded Medicare fee-for-service disease management program funding.

Mr. BROWN. Mr. President, this amendment would accomplish two important health care goals. It would correct a mistake in Medicare payments to five hospitals in my State. It would correct mistakes that jeopardize access to critical health care. It would correct mistakes that threaten the jobs of nurses and other hospital personnel in areas of Ohio that absolutely cannot afford more job loss. It would correct mistakes that hamstring hospitals that should and must provide quality health care but are receiving payments that reflect their costs.

My amendment would also enhance the ability of a NIH-designated comprehensive cancer center in my State to offer hope to patients who are fighting the most serious and deadly forms of cancer.

Eleven cancer hospitals across the country already receive reimbursement from Medicare that reflects the costs of treating patients who have exhausted standard treatments and who are battling against steep odds to beat cancer.

These cancer hospitals deliver hope and results. They advance cancer research. They establish protocols for addressing the most aggressive forms of cancer.

The nonprofit University Hospitals system in Cleveland, OH, has invested in establishing a 12th cancer facility of the same caliber of those who today receive special reimbursement from Medicare.

The Ireland Cancer Center is already NIH designated, and, as I said, it is being expanded and enhanced to maximize its ability to contribute to the well-being of cancer patients and to the science of cancer care.

My amendment would ensure that the Ireland Cancer Center can fulfill its mission and promote the public health. I know the amendment I am offering will not only benefit Ohio and Ohioans, it will benefit our Nation's health care system and our Nation's efforts to combat cancer.

My amendment is fully paid for. In fact, it is more than paid for. Let me explain how it would be financed. There have been more than a half a dozen programs testing disease management programming and, to date, there have been very few successful outcomes. The fact that not only have these results not borne fruit but that, amazingly, the program participants are still drawing a benefit from the fees they charged was neither the Congress's nor the agency's intent when promulgating these initiatives.

The Centers for Medicare & Medicaid Services estimates that the Government is owed more than $750 million from these programs—$750 million—and, in fact, the most recently concluded program, the Medicare Health Support Program, has an outstanding price tag of more than $80 million due to the program participants' failure to meet the statutory savings and quality performance targets.

The bottom line is this: There are Medicare contractors who did not meet performance goals. They are holding onto taxpayer dollars instead of returning those dollars to the Federal Government. That is how my amendment is paid for, and it is paid for and then some.

Instead of paying for cancer care, we are letting private contractors earn interest on dollars they should never have had in the first place. That is simply ridiculous. My amendment would recoup these tax dollars to the great benefit of the public health. I ask my colleagues on both sides of the aisle to support it.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Montana, the chairman of the committee, is recognized.

Mr. BAUCUS. Mr. President, the amendment of the good Senator from Ohio would do two things. It would allow five hospitals to receive geographic reclassifications for the purpose of receiving higher Medicare reimbursements; and, second, it would provide a prospective payment service exemption to a cancer facility, which would make the hospital eligible for extra Medicare reimbursement.

While I am sympathetic with the problems the Senator alludes to with respect to, as I understand it, six facilities in his State of Ohio, the fact is, these are so-called rifle shots. This is going to affect the reclassification of five hospitals and change the reimbursement system for one other.

I would like to help out, but I must tell my good friend from Ohio, there are over 50 other requests from other Senators for reclassifications in their home States. If we accept this, Katy bar the door. I can tell the Senator from Ohio, I am thinking of one Senator right now who talks to me constantly—constantly—about the reclassification of hospitals in his home State, and there are many others.

The classification issue in this country is nuts. It is how we pay hospitals based upon—GPCI is the common phrase of what it is called in other formulas for hospitals. And it does not make a lot of sense. It is disparate. It is confusing. It is a mixture. It is not a fair way to reimburse hospitals. So we will be taking this up in health care reform legislation later on this year. And we have to. That is the proper time and place to deal with it.

The same is also true for reclassification of cancer hospitals. That, too, must be taken up. This Congress, frankly, is not competent to decide which hospitals receive which reimbursements. There are so many hospitals in this country that it is getting to the point where we are, as Members of the Senate, asked to decide what the proper reimbursement rate should be for individual hospitals. That is just hospitals. Think of all the other individual, separate medical reimbursement questions we are asked to make. We are not competent as Senators to make that decision.

It is too complicated, and it is getting worse every year—worse every year—because Senators and House Members, appropriately representing their States and their congressional districts, come to the committees of jurisdiction and say: Do this for our State, do this for me, and so forth, as they appropriately should. But this has been going on for year after year after year after year, and it is getting more and more and more complicated. It is out of hand, and it is just one reason why our health care system in this country is in such disarray.

We do not have a health care system in this country. It is a conglomeration, it is kind of a hodgepodge of individual providers, patients, different groups, medical equipment manufacturers—kind of a free market atmosphere—just asking for help for themselves, and they come to Congress saying: Do this for me because I am not being treated fairly.

So I say to my good friend from Ohio, there is a proper time and place to do this to address geographic reclassifications. However, this is not the time. Once we start going down this road on this bill, it is Katy bar the door. That is another reason we shouldn't go down this road because we didn't pass this children's health insurance legislation pronto, right away, with the House, and get it to the President's desk. The President very much wants us to get this legislation passed very quickly.

I say to my good friend from Ohio if we start going down this road and adopting amendments to reclassify hospitals in one State, virtually every other Senator is going to come up here and say, What about my State? You have to do it for me too. Then it is going to open up doors even more.

I urge us all to refrain from going down that road right now. Let's not allow any of these—there are no rifleshots at this bill. None. These are rifleshots. There are none in this bill, with the exception of a couple hospitals in Tennessee that were included in the last children's health insurance bill 3 years ago. It was a commitment I made to those two Senators from that State that they would be in this bill too. That is the only commitment I have made. A deal is a deal. I told them back then we would do it for various reasons, but other than that, there are no rifleshots in this bill and I think it would be wrong to include more and go down this road of reclassification.

I urge the Senator to either withdraw his amendment or I will urge Senators not to vote for it.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I thank the chairman of the Finance Committee and I appreciate his candor. I do plan to ask unanimous consent to withdraw the amendment. We both want to see this children's health insurance program pass quickly. We wish to pass it today; we hope we can pass it tomorrow for sure and get it to the President. It will have strong bipartisan support as it did last time when President Bush vetoed it. We know President Obama will sign it. I want to get it to him as quickly as possible. I ask Senator BAUCUS on the wage index issue and on the cancer hospital, if we could work together in the future.

Mr. BAUCUS. Absolutely. I make that commitment to the Senator, because he makes a good point. There are a lot of hospitals in similar situations.

Mr. BROWN. As I said, this hospital in Cleveland is NIH approved, so it should be near the front of the line when we do fix this in the future.

AMENDMENT NO. 79 WITHDRAWN

Mr. President, I ask unanimous consent to withdraw amendment No. 79.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 5:30 p.m., the Senate resume consideration of the Kyl amendment No. 46; that the Senate then proceed to a vote in relation to the Kyl amendment, with no intervening action or debate; that upon disposition of the Kyl amendment, the Senate proceed to a vote in relation to the Murkowski amendment No. 77; that there be no amendments in order to the Kyl or Murkowski amendments prior to the votes; and that there be 2 minutes of debate equally divided between the two votes.

I amend that to say the balance of the time between now and 5:30 to be equally divided and then 2 minutes for the Murkowski amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 46

Mr. KYL. Mr. President, that leaves about 6 minutes. What I wish to do is speak for about 3 minutes and then reserve the balance of my time and then close out the debate, if that would be all right.

Mr. President, again, to remind my colleagues, this amendment is designed to deal with the problem of crowdout, which the Congressional Budget Office says will affect 25 to 50 percent of the people on SCHIP. In fact, about 2.4 million people would leave private health insurance coverage and go to the public coverage of SCHIP. There are a lot of problems with that, as we have discussed before.

The main argument I have heard is that the amendment I have offered here would affirmatively restrict coverage and get kids off the rolls. There are two answers to that. No, it wouldn't. In fact, it has exactly the opposite effect; it would ensure coverage. Secondly, it is not my language. This is language that was written by House and Senate Democrats. Every single Democrat—in fact, every single Republican who voted for this legislation last year that the President vetoed has already voted for the precise language of my amendment. I didn't change a word. I simply took the language the chairman and others in the House had drafted to deal with the crowdout and put it into this bill.

It is actually very minimal language. The official description we have is as follows: Provisions to prevent crowdout. It removes section 116—the underlying bill removes section 116 from the bill that was passed last year. That section required that all States submit a State plan detailing how each State will implement best practices to limit crowdout. It requires the GAO to issue a report describing the best practices and requires the Secretary of HHS to ensure that States which include higher income populations in their SCHIP programs cover a target rate of low-income children. In other words, as I said, ensuring coverage rather than restricting coverage.

So the bottom line is it is the same language that was developed by the Democrats in the House and the chairman last year. Every person who voted for the bill last year has voted for this. There is nothing wrong with it. I wish it would go further. But I think we have to acknowledge that this is a very real problem. One of the reasons it is a real problem is because, unfortunately, some of the States are adding more and more higher income kids. Now, we understand why: because it is easier to find them and cover them, and that is why the State of the Presiding Officer, for example, covers kids up to 400 percent of poverty. It is easier to find those populations. The tough kids to find and get involved in the program are the very low income, at the poverty level, or 200 percent of poverty. That is what we should be striving to cover.

What our amendment does is to simply ensure that as many of the kids who have private insurance as possible aren't going to lose their private insurance, thus encouraging coverage of higher and higher income kids.

Let me reserve the last 3 minutes of my time to see if there is anything else I think I need to respond to.

I urge my colleagues to support this amendment. It is the same language they have all already voted for. It certainly is not going to do any harm, and I think it could do a lot of good.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I oppose the Kyl amendment. Senator KYL has mentioned that the provision which includes the substance of his amendment was in the prior two bills, in the 2007 bills, and he is correct. The Senator is correct. I voted for those, as did many other Senators. However, the circumstances were different back then. That was in response to what is called President Bush's August 17 directive. That August 17 directive, in my judgment, was a Draconian effort by States to essentially, in effect, not let children leave private health insurance for the Children's Health Insurance Program. So Congress, as a response to that directive, enacted this section we are talking about here, section 116. However, that directive was never put in place. We have a new President who is certainly not going to issue a similar directive, which makes the legislation we put in earlier—legislation to moderate the August 17 directive—not necessary.

So that is why I think it makes sense to vote for the bill, but not put this unnecessary language back in. It is unnecessary because the August 17 directive is no longer operable.

Let me also say a few words about the Murkowski amendment, which is the second amendment we will be voting on. The Murkowski amendment would take Federal funding away for kids above 300 percent of the Federal poverty level if the State cannot prove that at least 80 percent of the kids below 200 percent of poverty are covered. States cannot be held accountable for things beyond their control.

This amendment would make States responsible for things such as the private insurance market, the percent of employers offering health coverage, and the overall economy—matters which are beyond the control of States. These factors and others contribute to the level of uninsured kids. States should be encouraged to cover as many low-income kids as possible, not penalized for doing so. This amendment draws an arbitrary line between 200 percent and 300 percent of poverty. I don't think that makes sense.

The Children's Health Insurance Program was started as a joint partnership between States and the Federal Government—a joint partnership. We want to continue this partnership, not limit State flexibility, as was the intent of the original CHIP legislation. That is the hallmark of the Children's Health Insurance Program.

The Murkowski amendment might sound reasonable, but the truth is that it jeopardizes health care for kids. Setting arbitrary targets for States to meet is unfair, it is inappropriate, in a program designed to help kids—not discourage kids but to help kids—and to get them to the doctor visits and the medicines they need.

I urge Members to vote against both the Kyl amendment, which will be the next vote, and the Murkowski amendment, which will be the subsequent vote.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I wonder if the chairman would respond to a question. I am not certain I understood the point with regard to Secretary Leavitt's August 17 directive.

Do I understand that the chairman supports the policy directive of August 17 dealing with crowdout?

Mr. BAUCUS. On the contrary, just the opposite. I do not support it. I did not support it.

Mr. KYL. That is what I assumed was the case. Of course, the August 17 directive was designed to try to deal with the problem we are talking about. It is quite likely that directive is not going to exist, which is precisely the reason for the kind of language that we need to have in this bill that is the Kyl amendment.

The whole point is that without something, either the directive such as Secretary Leavitt issued, or the language that is in the Kyl amendment, you are not going to have any Federal directive with respect to States ensuring that the crowdout effect is kept to an absolute limit. That is exactly why we need to do it. Circumstances are no different than they were 6 months or so ago with respect to the problem of crowdout, except that the problem is getting much worse because we keep adding more and more higher income kids.

As the CBO said, and as the Senator from Kansas noted before, CBO estimates that with regard to the higher income kids, it is about a one-for-one ratio. For every one that you add, you take one away from private health care. That is not something we should be fostering. I don't think any of us intends that result. The only people who would intend that result are those who want to wipe out private health insurance coverage and get everybody on government health care. That is where this is taking us. If that is the real motivation of people, well, at least I can understand it, and this legislation certainly would carry us in that direction. But I haven't heard too many people who are willing to admit that that is what they are trying to do, and I don't think that is what the chairman of the committee is trying to do.

So there needs to be something to deal with the problem of crowdout. If it is not going to be the directive of Secretary Leavitt, then it has to be the language prepared by the House and Senate Democrats when they passed the bill last year that President Bush vetoed. That language is not strong enough, in my view, but at least it does require a study of best practices and it requires the States to show whether they are putting those best practices into effect.

The final provision with respect to that is that with respect to two States and two States only, were they not to do that, they would—there would be a limit on the States of New York and New Jersey as a result of the requirement of the best State practice. The higher income States—and there are two—

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that an additional 15 minutes equally divided be allocated on this amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KYL. Mr. President, I appreciate that. I certainly wouldn't need the half of 15 minutes, but I certainly appreciate that, at least to finish my thought, if not another couple of minutes.

The language that was written last year and that would be in my amendment is that in the higher income States, the low-income kids must be covered at a rate equal to the top 10 States, and if a higher income State fails the test, then it wouldn't receive the payment only for those higher income kids.

So there is no difference between all of the other States and even New York and New Jersey with respect to the lower income kids, but the incentive here is obviously not just to cherry pick the higher income kids but to try to make sure you are covering the lower income kids too.

To conclude my comment, either you go with something such as Secretary Leavitt proposed—and I don't think that with the new administration that is going to remain on the books—or you are going to have to have something such as the language that was prepared by my Democratic colleagues last year which at least minimally deals with the problem of crowdout by identifying the best practices and ensuring that the States at least have some kind of a plan to apply those best practices to prevent this huge problem of crowdout.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, without prolonging this debate, very simply this comes down to whether you support the policy of President Bush's so-called August 17 directive.

The amendment in question is kind of a watered-down version of that August 17 directive. That directive basically discouraged States from providing children's health insurance availability to kids of moderate income. That is what the August 17 directive did. It discouraged States from, at their own discretion, a State option, providing children's health insurance coverage for kids who are above 200 percent poverty and a little higher, which has a tendency to mean those families would not have private health insurance but would have insurance under CHIP.

It is simple: If you are for discouraging kids going to the CHIP, middle-income people—actually, lower than middle income—vote for the Kyl amendment because that basically is a watered-down version of the August 17 directive. If you are for the August 17 directive, you are probably for the amendment. If you are not for the August 17 directive, you are not for the Kyl amendment.

I oppose the amendment. I think most are opposed to it. We should not vote for it. I don't mean to disparage the Senator, but it is a watered-down version of the August 17 directive.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I find this argument curious because the chairman of the committee made the point that the language he and others drafted was in response to the August 17 directive of Secretary Leavitt. This was their answer to it. They did not like it, so they said: We don't like that directive, we are going to propose some language that is going to solve the problem. It is going to solve it his way, not our way. That is the Kyl language. It is the identical language they wrote last year in response to the Leavitt directive. That is the point. They did not like the Leavitt directive, so they wrote this language.

The Leavitt directive is going to be history, I suspect, in short order. They wrote this language because they knew there had to be something to deal with the problem of crowdout. They could not support the Leavitt directive, so they wrote their language.

I am the one who called it watered down. I will take authorship of that phrase. It is watered down from what I would have done is what I meant by that phrase. I am not speaking of it in pejorative terms. I would have done much more. But my Democratic colleagues, in response to the Leavitt directive, said: We don't like that; we are going to write something that is better. And that is what they wrote.

They knew there had to be something in here dealing with crowdout. All I am saying, since the Leavitt directive is likely to be history soon, No. 1, and No. 2, we do need to do something about crowdout, and No. 3, there isn't any other language they have been willing to adopt, surely language they already voted for that they wrote would be OK.

So anybody who voted for the bill last year, you are flipping. By not voting for this amendment, you are saying: I guess I was wrong then, but I don't see how that could be, given the fact this was specifically designed for the purpose the chairman identified.

I will close with this point. Everybody knows it is a problem. It is real. CBO has identified it. I don't think anybody doubts the problem of crowdout. You either do something about it or not, and I am doing the least thing about it by taking the language proposed by Democrats last year, passed by Democrats last year, and I don't know why the language now, this year, all of a sudden is not any good. What is wrong with the language? That question has never been answered. What is wrong with the crowdout language that was written last year and passed last year? We have to address the problem somehow. This is the least way to do it, in my view.

I urge my colleagues, think about this and think about what you will be

voting against if you fail to support the Kyl amendment. I urge my colleagues to support the Kyl amendment.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, very simply, what is wrong with this amendment? What is wrong is we don't know the consequences, what it will do to States. It may have consequences we have not anticipated. Therefore, I think it is not proper.

Second, without belaboring the point, the provision we discussed here was placed in legislation to counteract the August 17 directive. The August 17 directive is now going to be withdrawn; therefore, there is no need for this amendment. That is another reason this amendment is not needed. The August 17 directive is going to be withdrawn totally. That legislation was put in place to moderate the August 17 directive. If there is no August 17 directive, there is no need to moderate; therefore, we don't need the amendment.

I ask unanimous consent—unless the Senator wants to say something—that a quorum call be placed until a quarter of the hour.

Mr. KYL. If I can conclude with a quick point, to the extent we do not use time, we can have it run equally. If that would be part of the unanimous consent request, I would support that.

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

Mr. KYL. Mr. President, this is a useful exchange because the chairman has now made the point that the language of the Kyl amendment was written in response to Secretary Leavitt's attempt to deal with the problem of crowdout.

Again, everybody realizes the problem is real. Something should be done about it. Secretary Leavitt did something about it. Most of my Democratic colleagues did not like that, so they wrote the language of the Kyl amendment to respond to that directive.

The Leavitt language is probably soon going to be history because of the new administration. So the chairman of the committee is, in effect, saying now that because that no longer exists, the Kyl language, the language he supported before is not needed because we do not have to top the Leavitt language. But, of course, what that means is there would be no language dealing with crowdout.

I thought almost everybody agreed that it is a real problem and needs to be dealt with and that States should be engaging in the best practices to deal with it. That is all this amendment does, is to require that the best practices be identified and that they apply those best practices to deal with it. It is not much, but it is something, and if the Kyl amendment is not adopted and nothing is done in conference, then there is nothing. There is no Leavitt directive, there is no crowdout language in this legislation. There is nothing to deal with the problem that everybody acknowledges exists. The mere fact that it was written in response to the Leavitt language and that the Leavitt language is no longer going to be extant is an argument for the language, not against it.

Perhaps the amendment would have done better if I had identified the Democratic leadership in the House who actually drafted it, and instead of calling it the Kyl amendment, I would call it the amendment of the Democratic colleague in the House who drafted the language. Don't take the fact that it now has that name to mean it cannot be any good.

I say to my colleagues on the Democratic side of the aisle, this is something they supported before. It was a good idea then and a better idea now given there is not going to be an administration directive to deal with the problem and something has to be done to deal with the problem.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the answer to this is to deal with it in health care reform. Nobody knows the degree to which this is an issue. There is a lot of talk about this issue, especially from the other side. We don't know for sure what the dynamics are that cause or do not cause. We don't know what the consequences are. We don't know how much this really is a problem, frankly. That is why we should have health care reform legislation.

This country does not have a health care system really, just a hodgepodge of different people doing different things. Clearly, we want a solution that is a combination of private insurance as well as public insurance, a uniquely American solution that is a combination of public insurance and private insurance.

There is a very strong role for private health insurance in this country. In fact, the private health insurance industry wants health care reform. When they start to insure 46 million, 47 million Americans who do not have health insurance, it is an opportunity for them. They also want to engage us in insurance reform. They will have to change their business model, but they do agree the time has come to guarantee issue. That is a fancy word saying anybody who applies for health insurance is guaranteed to get it, and there is no discrimination on preexisting conditions, no discrimination based on medical history, no discrimination based on age.

There is a lot we need to do in this country to get meaningful health care reform so everybody has health insurance, all Americans have health insurance, and also so costs are brought down.

I remind my colleagues, we pay twice as much per capita on health care in this country than the next most expensive country. If we keep going down the road we have been going down—that is, not addressing comprehensively health care in this country—then that trend will continue to get worse and worse. That is a cost not just to families and individuals who pay so much more, but it is also a cost to our companies that have to pay so much more for health care than companies in other countries. Third, it is a big cost to our State and Federal budgets. Their budgets are so high because health care costs in this country are so high.

Although this is more than an interesting question, we really do not know the answer to it. We are addressing it by this amendment in a piecemeal way. That is what is the whole problem with what we have been doing for the last 15, 23 years in this country.

I do not mean to be critical of the Senator from Arizona and disparage what he is doing. If we come back with different Senators and different amendments to address another health care issue, it is like a big balloon: push it here and it pops up someplace else. We don't look at it comprehensively. I think the proper place to look, the place to draw the line between public coverage and private coverage is in the context of national health care reform.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, that is a good point. I certainly concur with the chairman that we need to do national health care reform. But that is not an argument not to deal with crowdout in the very bill that is going to deal with crowdout and in the very bill that we dealt with crowdout last year. In other words, the language of the Kyl amendment is the language that was put in the bill last year. It was not put in comprehensive health care reform. It was put in the SCHIP bill because it is in the SCHIP bill that the problem of crowdout occurs.

The chairman notes that we do not know exactly how big the problem is, but CBO has given a good estimate. It provides that an Institute of Medicine study would describe the best way to measure crowdout. That has to be submitted 18 months after enactment. This is not exactly warp speed. We have 18 months to figure out the magnitude of the problem. GAO would submit a report to analyze the best way to address the crowdout. And then within 6 months of receiving the reports, the Secretary of Health and Human Services would develop recommendations on how to deal with it. We are now 2 years from now, or when the bill passes, and then 6 months after that the Secretary would publish the recommendations, and eventually we get to the point, after the studies, to figure out how big the problem is and what to do about it. The Secretary publishes it, and then the States have the obligation to look at these options and best practices and to institute them, probably 2½ years after this bill becomes law.

So we are not exactly jumping the gun here, and it is far more appropriate to put the language in this bill, the

SCHIP bill, as we did last year, than it is to wait for some future health care legislation. I don't buy that argument.

Again, I urge my colleagues to support the Kyl amendment. It is the same thing everybody who will be voting for this legislation voted for last year.

The PRESIDING OFFICER. Senator BAUCUS has 2 minutes remaining.

Mr. BAUCUS. I am ready to vote.

They want us to wait 2 minutes, Mr. President. I suggest the absence of a quorum to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to amendment No. 46. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY is necessarily absent.

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

The result was announced—yeas 42, nays 56, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—42

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Specter
Collins	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	Lugar	Voinovich
Crapo	Martinez	Wicker

NAYS—56

Akaka	Feinstein	Mikulski
Baucus	Gillibrand	Murray
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Conrad	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Feingold	Merkley	

NOT VOTING—1

Kennedy

The amendment (No. 46) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, this will be the last vote tonight. If there are other amendments people wish to offer, we will deal with those.

We hope tomorrow we can start again early. We can come in probably about 9:30 in the morning and start working on these amendments. We have had a lot of votes.

I just had a conversation with the distinguished manager of the bill on our side and he is looking at these amendments. He has indicated for some of them—there are several of them he might look at favorably. But what amendments we have, let's get to them and see if we can finish this tomorrow at a reasonable hour.

I have spoken with the Republican leader. We have had a good conversation. What we wish to consider, subject to the will of the body, is to finish this tomorrow at a good time. We would come in at a relatively decent time on Monday. We would be allowed to move to the economic recovery package. We would complete the 2 or 3 hours on Holder starting at 1 or so in the afternoon. We will have a vote that evening and then spend the rest of the day on the economic stimulus bill—start offering amendments on that on Tuesday or if somebody wanted to offer some Monday night. I think we would save the time Monday night for statements on that legislation and then work toward completing the legislation on the stimulus as quickly as we can.

Remember, our goal is to finish the legislation so that on Monday of the following week we can start doing the conference so we can complete that before the Presidents Day recess.

The Republican leader and I have talked about another issue or two that we might try to complete before the recess while the conference is taking place. We will talk about that at a subsequent time. But I think I have given a general overview of what we think will take place the next week or so.

Mr. LEAHY. Mr. President, will the distinguished majority leader yield for a question?

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I understood from my earlier conversation with the distinguished majority leader, and also a conversation with the distinguished ranking member on the Judiciary Committee, that once we finish this tomorrow—because of the real need to get somebody in our top law enforcement office, which is a privileged matter—that we would go to the nomination of Eric Holder tomorrow, even if it requires tomorrow evening, and go for a vote. I note he passed after a lengthy time. He has been waiting much longer than the past three Attorneys General did, from the time he was announced to the time he got out of the committee. He passed the committee by 17 to 2 today.

I had understood and actually told Mr. Holder and others, based on my conversation with the distinguished leader, that we would go to Mr. Holder tomorrow once this bill was finished.

Mr. REID. Mr. President, through the Chair to the distinguished chairman of the Judiciary Committee, that was the conversation. It is true it is a privileged motion but it is debatable. I think we should quit while we are ahead.

If the minority will allow us to go to this at a set time on Sunday, the fastest we could get to it anyway would be sometime—on Monday, I am sorry—the quickest we could get to it likely anyway would be on Sunday and I don't think we need to do that if we are going to have the permission of the minority to allow us to do it sometime early in the day on Monday.

I know there is some urgency in this, but the Senate, being as it is, we only need one person on the other side to say to do it at a later time and we are obligated to do that.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, if I might respond to the distinguished majority leader, my friend from Nevada, if somebody wants to vote against Mr. Holder, let him speak and vote against him. But I do not know, if there are only one or two people who want to hold him up, why should we have to hold it up? We do not have an Attorney General now. We aren't able to put in all the other spots. It is the premier law enforcement office in this country. I would hate to think, over the weekend, we had some major law enforcement crisis. I hope that with a person who has been endorsed by every single law enforcement agency across the spectrum in this country, we could go to him sooner. I am happy to be here Friday. I am happy to be here Saturday if that is what it takes to vote.

Mr. BYRD. Me too.

Mr. LEAHY. I hear the distinguished Senator from West Virginia. I was supposed to lead a delegation to Davos, the World Economic Summit. I have canceled that. I am prepared to go. Obviously, the leader is the one who could bring up a privileged matter. I find it very frustrating we are not going to go forward.

Mr. REID. I understand how my friend from Vermont feels. I have to say I think we should accept ''yes'' for an answer. It may not be the exact time we want, but I think it is a pretty good package.

We would go to work on this at a reasonable hour early in the afternoon on Monday. The Attorney General will be approved sometime early in the afternoon on Monday—probably about 5 o'clock. And we would be able to go at that time to the economic recovery package. We would not have to file on that.

I think we are doing pretty well here. Everyone seems to be getting along well. I don't think we need to have a

long debate that is unnecessary over the weekend when we would only save, at most, 24 hours anyway.

I know how much the chairman has worked on this, but I think it is better that we go as I have outlined.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, obviously the leader could bring it up any time. If he wants to do it differently than we had discussed earlier, that is his option. I am disappointed.

AMENDMENT NO. 77

The PRESIDING OFFICER. There will now be 2 minutes of debate prior to a vote on the amendment offered by the Senator from Alaska, Ms. MURKOWSKI.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Ms. MURKOWSKI. Mr. President, I ask that all Members listen for 1 minute. I would like to think I have earned the reputation of being a relatively reasonable Senator in my approach. What I have before you today is a pretty reasonable amendment.

What I am proposing in this amendment we have before us is if a State wants to exceed the 300 percent FPL for CHIP, if they want to go above that level, what my amendment says is, we are going to give the flexibility for the States to be working with the Secretary to ensure that before they do that, if they can ensure that 80 percent of the children within their State are covered, those children below 200 percent of the Federal poverty level, if 80 percent of those are covered, then you have the flexibility to go above that 300 percent.

What we are allowing for is to guarantee, if you will, that we are covering those children we set out to do when we passed SCHIP in the first place. So, 80 percent, look at your State's level. Just about all States can meet this. We want to provide a level of flexibility, but we want to ensure that the children from the neediest families are going to be taken care of first. I ask for my colleagues' support.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, this is frankly a cleverly designed amendment which has dire consequences. Essentially it takes away Federal funding under the Children's Health Insurance Program where States cover children above 300 percent of poverty where the State cannot prove at least 80 percent of all the children in the State are below 200 percent of poverty, as covered either under the CHIP program or privately.

The problem is this: States cannot control their economies. Let's say there is a recession. Let's say there is high unemployment. Let's say people lose their private health insurance coverage. States cannot control that. They cannot control what the total coverage in their State will be, public and private.

If a State cannot guarantee that 80 percent, it cannot control it, then that State loses its Federal funds. So I think that even though it sounds pretty good on the surface, the trouble is States cannot control the dynamics that are going to determine whether the States get those Federal dollars.

Therefore, I urge that the amendment not be adopted.

I ask for the yeas and nays.

The PRESIDING OFFICER (Ms. CANTWELL). Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—47

Alexander	Crapo	McCain
Barrasso	DeMint	McCaskill
Begich	Ensign	McConnell
Bennett	Enzi	Murkowski
Bingaman	Graham	Nelson (NE)
Bond	Grassley	Risch
Brownback	Gregg	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Carper	Inhofe	Snowe
Chambliss	Isakson	Specter
Coburn	Johanns	Thune
Cochran	Klobuchar	Vitter
Collins	Kyl	Voinovich
Corker	Lugar	Wicker
Cornyn	Martinez	

NAYS—51

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Pryor
Bennet	Inouye	Reed
Boxer	Johnson	Reid
Brown	Kaufman	Rockefeller
Burris	Kerry	Sanders
Byrd	Kohl	Schumer
Cantwell	Landrieu	Shaheen
Cardin	Lautenberg	Stabenow
Casey	Leahy	Tester
Conrad	Levin	Udall (CO)
Dodd	Lieberman	Udall (NM)
Dorgan	Lincoln	Warner
Durbin	Menendez	Webb
Feingold	Merkley	Whitehouse
Feinstein	Mikulski	Wyden

NOT VOTING—1

Kennedy

The amendment (No. 77) was rejected.

Mr. DURBIN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 49

Mr. COBURN. Madam President, I call up amendment No. 49.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 49.

Mr. COBURN. Madam 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 prevent fraud and restore fiscal accountability to the Medicaid and SCHIP programs)

Strike section 602 and insert the following:

SEC. 602. LIMITATION ON EXPANSION.

Section 2105(c)(8) (42 U.S.C. 1397ee(c)(8)), as added by section 114(a), is amended by adding at the end the following:

''(C) REQUIREMENT.—Notwithstanding subparagraphs (A) and (B), on or after the date of enactment of this subparagraph, the Secretary may not approve a State plan amendment or waiver for child health assistance or health benefits to children whose family income exceeds 300 percent of the poverty line unless the improper payment rate for Medicaid and CHIP (as measured by the payment error rate measurement (PERM)) is equal to or is less than 3.5 percent.''.

Mr. COBURN. Madam President, this is a pretty straightforward amendment. I am having trouble understanding what we are doing. The average improper payment rate, as published by GAO and OMB, is around 3.5 percent for the programs. We, just now, after 7 years, are starting to see the improper payment rates for Medicaid and SCHIP reported.

What is interesting is that the payment Medicaid error rate for fiscal 2008 is 10.5 percent. Madam President, $32 billion was improperly paid out of Medicaid this last year; $18.6 billion of that is the Federal share. The SCHIP rate was a 14.7-percent improper payment rate.

This is the first time we have seen that SCHIP has reported its improper payment numbers for a full year, and it is important in this regard: The worst offender in the country is the State of New York, with an estimated 40-percent improper payment rate. The purpose of this amendment is to restore fiscal discipline by making the Medicaid and SCHIP programs more accountable and efficient and to limit earmark expansions until the programs are working at least within the range of what other Government programs work.

Now, we have an earmark in this SCHIP bill for the State of New York that allows citizens in the State of New York an elevated level of access to the SCHIP program that is some $30,000 above the rest of the country. We can decide to do that. That is fine. But what we should not do is allow the worst State in terms of offense in fraud in Medicaid to be able to expend additional moneys up to 400 percent of the poverty level until, in fact, they bring their improper payment levels down.

Let me refer to a 2005 New York Times article where the former State investigator of Medicaid abuse estimated that questionable claims totaled 40 percent of all Medicaid spending in New York—nearly $18 billion a year in New York alone.

One dentist somehow built the State's biggest Medicaid dental practice. This dentist—she—claimed to have performed 991 procedures a day in 2003. Get that again: 991 procedures a day. Van services intended as medical transportation for patients who cannot

walk were regularly found to be picking up scores of people who walked quite easily when a reporter was watching nearby. These rides cost taxpayers $50 a round trip, adding up to $200 million a year, of which a large portion of that was fraud.

So what this amendment does—it does not affect existing SCHIP programs or States that wish to expand eligibility for families making up to 300 percent of the Federal poverty level. What it says is, until Medicaid and SCHIP payments reach the improved level of 3.5 percent—the average of other Federal agencies—we should not give New York a special earmark for people making 400 percent of the Federal poverty level.

First of all, it is a matter of common sense. Why would we allow the State with the worst fraud rate on Medicaid to have an additional exception over everybody else in the country, when they are the least efficient with spending their money on the people whom they are covering today?

Now, I do not know if 40 percent is accurate. It may not be. But the fact is, the whole Medicaid Program and SCHIP program are three to four times what the rest of the Federal Government is in terms of fraud and abuse. I think it is important we condition the expansion and the earmark for New York State on them coming into alignment with the rest of the Federal Government in terms of its abuse.

So with that, I yield the floor to the chairman.

He has no comments. I will move on to another amendment.

AMENDMENT NO. 50

Madam President, I call up amendment No. 50.

The PRESIDING OFFICER. Is there objection to setting the pending amendment aside?

Mr. BAUCUS. Madam President, reserving the right to object, let me get a sense of the lay of the land here. Let me see what this amendment is first.

Madam President, I have no objection.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 50.

Mr. COBURN. Madam 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 restore fiscal discipline by making the Medicaid and SCHIP programs more accountable and efficient)

At the end of section 601, add the following:

(g) TIME FOR PROMULGATION OF FINAL RULE.—The final rule implementing the PERM requirements under subsection (b) shall be promulgated not later than 6 months after the date of enactment of this Act.

Mr. COBURN. Madam President, this is another amendment. It is about being prudent with the taxpayers' money. It is about us doing what we are expected to do. It is about us controlling improper payments. This amendment would require that the final rule implementing the payment error rate measurement requirements under section 601(b) shall not be made later than 6 months after the date of enactment of this act.

Now, the problem that we have is, the legislation, in its current form, would effectively erase this long overdue progress by placing an unnecessary moratorium on the reporting requirements for Medicaid improper payment numbers. Let me say that again. In its current form, this legislation erases this long overdue progress by placing a moratorium on the reporting requirements for Medicaid improper payment numbers.

Section 601 of the bill states:

The provision would prohibit the Secretary from calculating or publishing national or state-specific error rates based on PERM—

The ''payment error rate measurement''—

for CHIP until six months after the date on which a final PERM rule, issued after the date of enactment of this Act, is in effect for all states.

However, there is no deadline for the final rule.

So all we are saying with this is, if we really want improper payment information released to the American public and released to Members of the Senate, we ought to be able to get the PERM done within 6 months of the enactment of this bill. It is a fair compromise between those seeking clarification guidance on PERM while ensuring there will eventually be progress and movement to guarantee the continuation of the measuring of improper payments. For the life of me, I don't know why we don't want to measure improper payments with the Medicaid Program. Maybe it is because we know what we are going to see, as with the first 17 States where we have a 10.3 percent error rate, of which over 90 percent is payment out in error.

Six months is more than enough time for CMS to write the PERM guidelines, especially since it took our Founding Fathers only 4 months to write the Constitution.

The Medicaid composite error rate for 2008 is 10.5 percent. That is $32 billion of Medicaid money that could have been redirected in a more proper manner. This marks the first time the SCHIP has reported its improper payment rate, and it was at 14.7 percent. To put that in perspective, the Congressional Research Service notes the average for each of the other Federal agencies is 3.5 percent. This bill, as it is currently written, ignores a law that has been on the books and for which CMS has 7 years to prepare. All we are saying is, after we pass this bill, make them do it within 6 months. They can do it. They know they can do it, and we have said no. I don't understand that. I am willing to learn why we would not want improper payments reported to both us and the American people. CMS itself has advocated for more transparency on improper payment.

CMS is aware of the challenges and noted the lack of information about payment error rates. We have actually had hearings in the Financial Management Subcommittee on improper payment rates in both Medicare, SCHIP, and Medicaid. Kerry Weems, the former Director of the CMS stated: There is a substantial vulnerability in preventing and detecting fraud, waste, and abuse in the Medicaid Program. Measuring performance, publicly reporting the results, and providing payment incentives that encourage high quality and efficient care are paramount to keeping CMS accountable to the beneficiaries and the American taxpayers.

What this bill does is strip the transparency and the information CMS needs to detect and prevent waste, fraud, and abuse. Supporting this amendment is consistent with what our new President has said in terms of his pledge to make sure government works, that government is transparent, and that we actually know where we are spending our money and whether it is working and effective. We have a duty to make sure taxpayers are only paying for the services and the people who are entitled to benefits. This is a simple amendment to just shed transparency on a government bureaucracy.

Madam President, I ask unanimous consent to set aside that amendment and call up amendment No. 47.

Mr. BAUCUS. Madam President, reserving the right to object, I would like to see the amendment.

Madam President, might I ask if the Senator from Oklahoma could right now begin talking about his amendment while we have a chance to look at it, and then we could bring it up as soon as we have a chance to look at it. It saves some time.

Mr. COBURN. The Senator does not want to move on this amendment?

Mr. BAUCUS. I am just saying speak on the amendment. Then we will make a decision to move it after we have had a chance to look at it.

Mr. COBURN. OK. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NO. 47

Mr. COBURN. Madam President, the purpose of this amendment is to make sure children don't lose their private insurance and uninsured children can get access to private health insurance.

This amendment would require a premium assistance approach for new Medicaid or SCHIP expansions under this act. It would cut bureaucratic redtape for States to use a premium assistance approach.

I will be the first to say SCHIP was created for targeted low-income children, those families making less than 200 percent of the Federal poverty

level, and I believe that is where the program should stay focused. The Department of Health and Human Services just released new numbers on the Federal poverty level. For a family of four, it is $22,050 a year. That means the current SCHIP without expansions is available to children whose families are making $44,000 a year. That is close to the national median income of $50,000.

The underlying bill will expand the SCHIP program up to families making $66,000 a year or $88,000 if you are fortunate enough to live in the State of New York. I am concerned about this for a number of reasons, but there is little question the majority has the votes to pass the underlying bill and President Obama will pass it. Therefore, my amendment is not about whether to expand SCHIP; my amendment is about how to expand SCHIP.

Are we going to put the majority of American kids on a government-run program? If that is our goal, then we should totally reject this amendment. Or are we going to use an approach that ensures children in America have access to market-based insurance?

Let me tell my colleagues why this is important. Today, only 40 percent of the physicians will take an SCHIP or a Medicaid patient. Sixty percent would not even let them darken their door. So what we have in essence done is put a stamp on the foreheads of people in these programs that says: You get the doctors who are not busy enough so they have to take SCHIP and Medicaid.

What this amendment is designed to do is, if they have an opportunity for insurance, we give them that opportunity, which takes that stamp off their foreheads. In other words, we don't relegate them to lower class health care.

My amendment would require States to use a premium assistance approach to keep kids in private coverage if they want to expand their Medicaid or SCHIP under this bill. The American people know the market generally does a better job of controlling costs and improving the quality than government can. We know that because when we look at outcomes of Medicare versus private insurance, we see it. When we look at outcomes of private insurance versus Medicaid, we see it. When we look at outcomes of private insurance versus SCHIP, we see it. We know that is true. If they need a little extra help to get the private insurance, this amendment would make sure they have it. I believe parents—not government bureaucrats—should be able to make the decisions about the health care of their kids. This amendment will reduce crowdout of private insurance.

Anytime the government offers to give something away for free, it is common sense that an employer or an individual will take them up on the offer. As we offer free health care to higher income children, many of whom already have coverage, we are going to see a resulting drop or crowdout in the number of employers willing to pay for private coverage.

The Massachusetts Institute of Technology economist Jonathan Gruber has estimated the crowdout rate of expanding SCHIP to new eligibility groups at 60 percent. The Congressional Budget Office shows that 400,000 children will be newly covered in higher income families, and there will be a reduction in existing private insurance for another 400,000 children. That is our own Congressional Budget Office. If we send the bill as it is written to President Obama, it is going to break one of his campaign promises when he stated last fall:

> If you already have insurance, the only thing that will change under my plan is that we will lower your premiums.

Voting in support of this amendment ensures that President Obama can keep his promise. Not only does crowdout take away the private coverage higher income children have now, it is a bad deal for taxpayers. For those new populations covered by CHIPRA 2009, the SCHIP legislation, one new child for the cost of two. CBO says the bill will cover 1.9 million SCHIP kids in 2013 at a cost of $2,160. However, because of crowdout, taxpayers will actually pay $4,430 for every newly insured kid because we are picking up the tab for those kids who already had insurance. The purpose of this amendment is to minimize that crowdout. Rather than encourage government dependence, it is to help people stay in a private insurance plan. It is also cost effective because the State will only have to subsidize the employee's share of the health insurance benefit rather than having taxpayers pay the entire benefit.

This amendment also cuts bureaucratic redtape to make it easier for States to use a premium assistance approach. Current laws allow premium assistance, but the administrative requirements are so cumbersome that only a handful of States have premium assisted programs. I will note that the underlying bill permits premium assistance but would also note that the administrative burdens would once again discourage States from using this approach.

According to the Kaiser Family Foundation, 55 percent of the 78.6 million children in America have employer-sponsored insurance. If that coverage is working for the majority of American kids, why can't it work for kids who are eligible for SCHIP? The answer is, it can and we have a duty to make sure it does.

The premium assistance language in the underlying bill also denies parents the right to choose certain types of coverage for their children. This language gives parents the right to choose from more coverage options. Parents, not bureaucrats, know best about what fits the needs of their children. A parent should be able to use premium assistance for their share of the employer-sponsored insurance, to buy insurance in the nongroup market, or to buy a consumer-directed product. All this does is give parents that right to make individual decisions about what is best for their children, about what doctor they will have for their children.

Don't forget most people in SCHIP don't get a real choice about who is going to take care of their children. They have a very limited choice. What this amendment does is ensures that a large portion of them can actually choose the doctor they want for their child.

It is not about—this amendment isn't about whether we should cover American kids; it is about the best way to cover those kids. I believe keeping kids with their parents and market-based coverage is going to be better for American kids, better for our country in the long run, and I will guarantee it will give us better outcomes for the children who are covered.

With that, I yield the floor.

Mr. BAUCUS. Madam President, I listened carefully to the Senator from Oklahoma, and I might say he has some interesting thoughts and interesting ideas. Let me think about them and maybe there is something we can do about them, and I thank the Senator.

Mr. COBURN. I thank the chairman for his consideration.

Mr. BAUCUS. Madam Chairman, I yield the floor.

Mrs. SHAHEEN. Madam President, I do not wish to speak to the amendments on the floor but to the underlying bill, and I rise today to express my strong support for H.R. 2, the Children's Health Insurance Program Improvements Act.

Providing children access to doctors and medicine is absolutely critical to a good start in life, but there are many children in New Hampshire and across this country whose families can't afford private health insurance but who are also not eligible to receive help such as Medicaid. It is the future of these children that we are considering this week on the floor of the Senate.

This is an issue that is near and dear to me. After children's health insurance was first passed—and I appreciate the efforts of so many people in this body to get that done—I was the Governor of New Hampshire, and I tried to start a children's health insurance program in New Hampshire, but the State legislature was unwilling to fund New Hampshire's share of the cost. I believed the program was important enough to keep working on it, and so we secured a waiver to allow private foundations to put up what would be the State's share. The program was successful and the State's share was funded in the next budget because there were so many families in New Hampshire who had received health insurance for their children, they came to the legislature and the legislature agreed to support it.

After enacting New Hampshire's children's health insurance program, tens

of thousands of New Hampshire children have obtained affordable coverage through this program. I have seen firsthand what a difference the program can make for middle-class working families.

Consider the case of Quint Stires from Keene, NH. I had the pleasure of meeting Quint on the campaign trail last year. Quint had advanced thyroid cancer, and he had to quit his job after becoming too sick to work. Then his wife also lost her job. Of course, they lost their health insurance. But, fortunately, in this instance, in the toughest of circumstances, Quint and his wife didn't have to worry about how they were going to provide health care for their two sons. They had New Hampshire's children's health insurance.

Unfortunately, Quint has since passed away, and my thoughts go out to his family. But I think it is important to share his story as we talk about this children's health insurance legislation on the floor of the Senate because sometimes we lose sight of the individuals the legislation we enact is really going to help. The Children's Health Insurance Program offered help to the Stires family when they needed it the most, and we have the opportunity to make sure other families have the same safety net available to them.

Due to the uncertain economy we face today, there are going to be many more parents and children in tough circumstances. Families and businesses are being forced to cut back on just about everything. People are losing their jobs, and employers are struggling to offer health care, leaving a rising number of Americans in need of affordable coverage options for their kids.

The legislation we are considering reauthorizes children's health insurance through September 2013 and provides enough funding to cover an additional 4 million uninsured children across the country. In New Hampshire, the estimate is that over two-thirds of our uninsured children are eligible for either Medicaid or children's health insurance, what we call New Hampshire Healthy Kids Silver. The Senate legislation increases funding for outreach so we can identify eligible children and enroll them, it streamlines the signup process, it provides incentives to States that achieve enrollment benchmarks, and it provides enough funding to cover every eligible child in New Hampshire.

For those who are as concerned about our mounting national debt as I am, the costs of this bill are fully offset through an increase in the Federal tobacco tax. Moreover, it is simply more cost-effective to get preventive health care for children than to have them treated in emergency rooms or to suffer from permanent conditions due to lack of care.

Today, more than 76,000 children in New Hampshire have health coverage, either through Medicaid or through our Children's Health Insurance Program. But I know we can do better because all children need regular checkups, all children need access to medicine, all children deserve a shot at preventing disease later in life, and all families need to know they can provide for their kids without going into insurmountable debt.

I am pleased that the Senate is considering this very important legislation so early in the 111th Congress. I believe it reflects our commitment to the children of this country. I urge my colleagues to support the legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Montana is recognized.

GETTING AMERICA WORKING AGAIN

Mr. TESTER. Mr. President, I rise today to urge the Senate and the Congress to act now to put people back to work and begin taking the steps necessary to restore economic growth in the near term and opportunity over the long haul.

The House passed a jobs bill yesterday, and the Senate Appropriations Committee passed its jobs bill out of committee on Tuesday. As a new member of that committee, I look forward to working with my colleagues from both sides of the aisle to pass a good jobs bill and get it to the President so we can start to get people back to work now and lay the foundation for broad-based economic growth and opportunity.

The need for this jobs bill is as plain as day. Each day, news brings fresh evidence that America's economy is on the wrong track. According to the experts, unemployment last month rose by 632,000 workers to 7.2 percent. Those are the highest levels in nearly 16 years, and the trendline is downright scary. Even so-called growth companies, such as Microsoft, are announcing layoffs, while retail companies such as Circuit City go belly-up in the wake of the meltdown of the financial markets. Just this week, Home Depot, Caterpillar, General Motors, United Airlines, Pfizer, and Sprint Nextel have announced massive job cuts, some 75,000 in 1 day, and the numbers continue to go higher and higher.

In Montana, we unfortunately are not immune to the economic gloom. Mining companies are experiencing significant layoffs. Car dealers are struggling. And the timber industry in our State is on the verge of collapse. The Montana Contractors Association said last month that the construction sector in our State has fallen more than 7.5 percent in the last year and a half. And the wild volatility of the worldwide energy markets has left both consumers and producers in the Treasure State feeling the effects of the boom-and-bust roller coaster ride.

Let me tell you, when you take away a worker's job, you take away the family's hope for the future. Montanans do not want an unemployment check. What they want is a job and a paycheck.

A recent picture in the Whitefish Pilot explained it well. A lone man stood on a street corner with a cardboard sign that said, ''Work needed.'' In the caption, he is quoted as saying:

> It's humbling, but I'm a workaholic. I do whatever it takes to pay my bills.

A woman from Kalispell wrote me about herself and her husband, both of whom are out of work. She said:

> I would be happy to clean your office, answer phones or do office work for you . . . or I will sweep streets with a broom if you can recommend me to the right person.

The unemployment rate hit 8.7 percent in Flathead County last month. These are proud working folks, and they are not looking for a handout. They are looking for a job, an opportunity to make a living, to provide for their families.

I come to my job in the Senate from our family farm in Montana. Although we might not register much more than a blip on the radar screen of national statistics, let me tell you, folks in rural America and our frontier communities feel the effects when the big picture is out of whack. We feel the effects of a national turndown in a big way.

Virtually every economic recession in American history started in farm country. This one is no different. Input costs are high and commodity prices are low. This is a recipe for financial failure.

So what do we do? The first thing we need to do is pass a good jobs bill, and we need to do it now. Rather than continuing to lurch from bailout to bailout, we need a good jobs bill that will put people to work right now and begin to rebuild our economy from the ground up by investing in infrastructure.

Yesterday, the American Society of Civil Engineers gave efforts to repair our Nation's infrastructure a grade of D. They said the repair costs have grown more than $500 billion in the last 4 years. Specifically, more than 26 percent—that is more than one in four—of our Nation's bridges are either structurally deficient or functionally obsolete. One-third of America's major roads are either poor or in mediocre condition.

In Montana, water is a huge infrastructure. I will give a few examples. The town of Stevensville's water supply dates to 1909, and there have been no significant or substantial improvements to that water system in 30 years. That town alone needs 150,000 bucks to upgrade the system to bring it into compliance with Federal drinking water standards and to ensure good public health. The town of Dutton, MT, needs half a million dollars to rehabilitate wastewater lagoons built back in 1946 to avert possible catastrophic dike failure and to serve the citizens of the town in compliance with current standards. These are just two examples of the need for infrastructure funding that will get people working now, enhance quality of life, and set the

groundwork for vigorous economic growth.

Some may criticize the need to upgrade infrastructure as nothing more than filling potholes. But I can tell you that after many years of failure at the national level to fund infrastructure, our national ''front end'' is a little more than a little out of alignment.

If we do it right, investing in infrastructure will be a win-win. Smart long-term infrastructure projects will put people to work right now and will also build for the future, for future generations, for our kids and our grandkids.

We know that every billion dollars in infrastructure investment produces 30,000 good jobs in our communities. When these infrastructure dollars are spent correctly, they will result in good-paying jobs and improvements that will allow our communities and businesses to grow and prosper.

We have sound local projects in process right now. All they need is an infusion of capital. These local projects will put people to work building roads, bridges, water systems, modernizing schools, bringing new sources of energy online, and the list goes on and on.

These Federal dollars will produce results that will benefit our communities for generations to come. We need an effective partnership on the Federal, State, and local levels to identify these priority projects with rock-solid merit, and we will work as public servants to get worthy projects the money they need to make them happen.

The jobs bill must have first-rate accountability. We have seen enough bridges to nowhere to know a boondoggle when we see one. We need full transparency so the American people can judge for themselves the worthiness of individual projects through a process that is more open than ever.

We need to pass this jobs bill in the Senate for one reason: We need to get America working again. Beyond the bricks and mortar and asphalt and concrete, we need to invest in our people. That is human infrastructure. A good first step would be to pass the children's health insurance bill that is on the floor right now to ensure the youngest and most vulnerable Americans have access to quality, affordable health care. I hope the Senate can get that goal done tomorrow. We need to focus on education and training to equip middle-class families to succeed over the long haul. We need to modernize our schools with new technology and build new ones where necessary.

Unfortunately, we have seen some folks playing politics with our country's future. They even criticize a proposal to increase Pell grants for working families to send their kids to college. Anyone who does not get how important college financial aid is to Middle America is out of touch with the tough decisions that are made around kitchen tables every day in this country.

It is also important to consider how we got here. Years of trickle-down economics, massive tax breaks for the well-to-do and the well connected, and a complete lack of regulation in the marketplace—that is the legacy of greed and abuse we need to correct. Just like the referees on the football field for Super Bowl Sunday, we need to put the referees back on the field on Wall Street. We need to make sure the crooks never again swindle honest people.

Our Founding Fathers said:

> If men were angels, no government would be necessary.

Thomas Jefferson noted in his first inaugural address that among the elements of good government is the need to ''restrain men from injuring one another.''

We have our marching orders. We need to get to work. I serve on the Senate Banking Committee, and I want to make sure the Treasury Department, the Justice Department, and the Securities and Exchange Commission all have the tools they need in their toolbox. If they need more tools, we need to go out there and get them for them.

Over the long haul, we need balanced priorities to rebuild this economy from the ground up. We need jobs. We need to put people first.

I am proud to give a voice to family farmers and ranchers. I want Washington, DC, to start seeing the world through the eyes of rural America. The wealthy special interests have had the run of this place for all too long and have run this economy into the ditch.

I was pleased to hear the Senate minority leader state last week that he intends to cooperate to pass a jobs bill and other vital legislation. Working together always results in a better work product.

I am disappointed, though, that others have decided to play politics at a time when so many American workers are struggling and families are worried about how to make ends meet. We have financial markets melting down, an economy that is cratered, and a future that is bleaker than any we have faced in generations. We need a new plan. We need a new direction. We need change.

I applaud President Obama for his leadership in proposing this new jobs bill, and I stand ready to work with him and all my colleagues to rebuild this economy from the ground up. We don't need bailouts. We need jobs.

Mr. President, I yield the floor and 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. TESTER. 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. TESTER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak up to 10 minutes each.

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

TARP

Mr. GRASSLEY. Mr. President, it is no secret that I have worked for decades to bring greater transparency and accountability to all facets of Government operations. If there is one thing I have learned over those years, it is that you cannot achieve the goal of greater transparency and accountability without the access to information.

Today, we are experiencing the greatest financial crisis of our Nation's history. Daily we hear of more companies failing and the need for many more billions of Federal funds to save this bank or that investment company. In response to this crisis, the Treasury Department unveiled an initial plan to buy stakes in banks and other financial firms. That program is known as the Troubled Asset Relief Program known to all of us around here by the acronym TARP, T–A–R–P, and it is costing the American taxpayers nearly three-quarters of $1 trillion.

In an effort to bring maximum accountability to the people for the TARP funds, Congress created a strong Inspector General with the broad powers to investigate and oversee the program, including access to the records of TARP fund recipients. Similarly, in an effort to provide maximum transparency, Congress required the Government Accountability Office, known around here as GAO, to monitor and oversee the TARP program as well. The Government Accountability Office's mission is to look at the overall performance of the initiative and its impact on the financial system.

The Government Accountability Office is also required to prepare regular reports for Congress. However, the Government Accountability Office cannot do its job without access to information, and I have learned that it does not have all the access it needs. Although the Government Accountability Office can examine the records of the Treasury itself and of any of its agents or representatives, the Government Accountability Office does not have access to the books and records of private entities that receive TARP funds. The connection there is public dollars. The public ought to have the right to know.

Believe it or not, the Government Accountability Office can't have access to information from the banks and investment companies that receive billions of taxpayers' dollars; that is the problem. This legislation I am introducing is intended to fix that as well. The Government Accountability Office is supposed to be the eyes and ears of the Congress of the United States. Well, it can't do that job wearing blinders and ear plugs.

HONORING OUR ARMED FORCES

CORPORAL JOSEPH M. HERNANDEZ

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of CPL Joseph M. Hernandez from Hammond, IN. Joseph was 24 years old when he lost his life on January 9, 2009, from injuries sustained from a roadside bomb attack in Jaldak, Afghanistan. He was a member of the 1st Battalion, 4th Infantry Regiment of Hohenfels, Germany.

Today, I join Joseph's family and friends in mourning his death. Joseph will forever be remembered as a loving husband, father, brother, son, and friend to many. Joseph is survived by his wife, Alison; his sons, Jacob and Noah; his brothers, Jesse and Jason; his parents, Elva and Jessie; and a host of other friends and relatives.

Joseph joined the Army in 2005 and had been stationed in Afghanistan for 1 month. Prior to entering the service, Joseph graduated from Mount Carmel High School in Chicago, attended the College of the Holy Cross and had entered the mechanical engineering and biology programs at Purdue University in West Lafayette, IN. Joseph was a man of great faith and an active member of Our Lady of Perpetual Help Church of Hammond, where he served as an altar boy and was a member of the choir. Joseph had many passions in life: he was a volunteer at the local animal humane society, and his interests ranged from boxing to model airplanes and vintage cars. Above all, Joseph's greatest passion was his family, who he hoped to take to a Chicago Cubs game at the end of his deployment.

While we struggle to express our sorrow over this loss, we can take pride in the example Joseph set as both a soldier and a father. Today and always, he will be remembered by family, friends and fellow Hoosiers as a true American hero, and we cherish the legacy of his service and his life.

It is my sad duty to enter the name of Joseph M. Hernandez in the RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. I pray that Joseph's family can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Joseph.

RURAL LAW ENFORCEMENT ASSISTANCE ACT OF 2009

Mr. HATCH. Mr. President, I rise today to express my support as a cosponsor of S. 150, the Rural Law Enforcement Assistance Act of 2009, introduced by my colleague on the Senate Judiciary Committee, Senator LEAHY. As our Nation copes with economic turbulence, we here in Washington are faced with tough decisions regarding the Federal budget. Back in our home States, State and local legislators are facing their own tough decisions and are examining drastic cuts to budgets that could impact law enforcement services provided to citizens. These cuts are leaving law enforcement administrators wrestling to do more with less. Unfortunately, we are finding out that these administrators are forced with the only choice of serving their public with fewer officers, less money for training and less money for tools and resources for the more than 800,000 men and women who keep our citizens safe from crime. I fear we have only seen the tip of the iceberg that is our present economic state. Large cities and small towns are seeing the possibility of not filling vacant law enforcement officer positions due to the recent budget crisis. In my home State of Utah, with the exception of a few law enforcement agencies, most of the departments patrol rural jurisdictions. Some of the hardest hit areas by this economic downturn are rural communities. Police agencies in these communities often lose out to larger metropolitan areas for consideration of justice assistance grants. Under the present form of the Department of Justice's Byrne Memorial Justice Assistance Grant Program, the sheriff's departments and police departments in Utah have seen a 65-percent decrease in justice assistance grant funding received from this program. These areas have their own challenges—issues such as illicit drug use that are not just unique to cities but transcend city limits and have manifested themselves in rural communities in much the same way they do in urban settings.

Press reports in the preceding weeks have been very grim to say the least. Joblessness is on the rise. The combination of revenue losses and budget shortfalls will see an increased demand for services on the part of these rural agencies. These issues will make it challenging to continue to meet the demands of normal calls for service. According to the chiefs and sheriffs in Utah, because of this economic downturn, the cost of everything is going up, including crime.

If passed, the Rural Law Enforcement Assistance Act would level the playing field by reauthorizing the rural law enforcement assistance grant under the Byrne Memorial Justice Assistance Grant Program. This reauthorization will make agencies located in rural States and populous States with rural areas candidates for this grant assistance. These grants can be used to hire officers, pay for officer training, crime prevention programs, and victim assistance programs. For example, in the coming fiscal year some Utah agencies may not be able to purchase essential items and tools like rape-investigation kits which are critical in the gathering of physical evidence after a victim has been assaulted. Grants awarded under the Rural Law Enforcement Assistance Act could be used to purchase these kits and other critical tools needed for investigations. As a longtime advocate for victims' rights, I find this troubling that there might be agencies in this country that may not have the necessary budget to purchase essential tools needed to investigate these heinous crimes.

For decades criminologists and economists have debated the link between crime and the economy. Some researchers have concluded that there is a ripple effect from the economy and it radiates out and displays itself in the form of increased calls for service, increased domestic violence, and increased property crimes. Presently, we do not have current crime statistics for 2008, but I will use a less scientific method: it is called listening to the professionals who each and every day answer the calls for police services in these rural areas. They tell me that they are seeing an increase in burglaries, domestic violence, emergency mental health committals, and more calls for service. Some agencies are down in personnel numbers. However, these law enforcement professionals are forging ahead doing the very best they can with whatever means they have. They are not looking at these grants as a free pass to purchase frivolous big-ticket items that have little to do with their agency's mission. These administrators tell me they are hopeful this act will pass so that they can continue to serve the rural communities who have come to expect the most basic of police services as a right guaranteed by the Constitution in ''ensuring domestic tranquility.''

My colleagues in this Chamber have taken great pains to examine and discuss a way to lead our country out of this crisis and get our economy moving again. We should be scrutinizing Government spending in this tight economy. But I cannot think of a better form of economic stimulus than making justice assistance grants available to rural communities and metropolitan areas alike. However, rural agencies currently find themselves on the outside looking in under the present JAG formula. The reauthorization of the Rural Law Enforcement Assistance Act would give rural agencies a better opportunity at receiving this grant assistance.

In closing, I quote the Greek philosopher Plato who said the following about communities: ''The community which has neither poverty nor riches will always have the noblest principles.''

This Nation is one large framework of communities and was founded on some of the noblest principles ever recorded in history. Some of our citizens choose a city lifestyle, and some have selected a rural small town life. Crime does not distinguish between urban and rural. The more than 800,000 men and women who make up the law enforcement community that keep our streets

safe in metropolitan cities and Main Street USA know this firsthand. One of the viscous subplots of this economic turmoil is that crime and the need for police services undoubtedly will increase. The small town rural police department may be the only Government entity that answers the phone in the middle of the night when a citizen has just lost a job and is contemplating suicide. A sheriff's deputy or police officer dispatched to the scene might be the only direct intervention that this citizen has with a government service. If there are not enough deputies or officers to go around, the response to this cry for help may be delayed or, worse yet, might not get there in time. When you reframe this issue relative to the scenario that I just laid out, it troubles me deeply and impresses upon me just how much our rural law enforcement community needs this reauthorization.

REMEMBERING HARRY ROBERTS

Mr. BARRASSO. Mr. President, today I wish to honor the life of a true Wyoming gentleman, a public servant, a veteran, a father to five girls, and—I am privileged to say—a friend.

Kearsley Harrison Roberts, better known to us as Harry Roberts of Kaycee, WY, died today, January 28, 2009, in Vero Beach, FL.

Harry Roberts was really a renaissance man, the kind of which are the lore of Western legends.

He was a Yale-educated sheep rancher, a Navy veteran of ''the greatest generation,'' an expert in public education—successfully elected statewide as Superintendent of Wyoming's public schools, a leader in Wyoming economic policy, and most of all he was a caring father.

I think we can imagine what brought him the most joy his family and of course, his five spirited daughters Mandy, Joan, Sheila, Ginny, and Susan.

Harry led quite a ranch crew. Picture five girls growing up on the Wyoming wildlands in the same area where Butch Cassidy and the Hole in the Wall Gang stowed rustled livestock and outran the law.

This was north central Wyoming, Barnum, a small community near Kaycee where to this day more rodeo cowboys than any one town in the West call home.

They call this part of Johnson County, WY, Outlaw Country, and after an eastern education, it inspired one western soul to work a sheep ranch for the love of the Wyoming way of life.

Harry Roberts found home and heart on this ranch, and today, I like to think of him back on his range, with the great western sky warming his big, signature smile.

Wyoming's Harry Roberts was the genuine Wyoming gentleman.

He was also the proud father-in-law to this body's beloved former colleague, U.S. Senator Craig Thomas. Harry's daughter Susan Roberts Thomas married Craig Thomas and the two were inseparable in life.

Susan, I speak for so many here in this Chamber and for all of Wyoming when I say our thoughts and prayers are with you today and with your entire family.

We grieve, as we did for Craig, the natural end of a purposeful life.

We recall a man who served his State, his country, and his family selflessly.

And we say, we remember Harry, as we do Craig, because of what he did and how he did it always with distinction and with honor.

Harry is and always will be a proud and patriotic member of the ''greatest generation.''

In fact he was what sailors call a ''plank owner.''

At that time, a ''plank owner'' referred to an individual who was a member of the crew of a ship when that ship was placed in commission. As part of the vessel decommissioning and disposal process, the Navy formerly removed a small portion of the deck as a traditional reminder of the time when ''wooden walls and iron men'' were a key part of the Navy.

In Harry's case, it was a boat—a submarine in fact.

After his military service Harry worked and lived in Wyoming, eventually running for superintendent of Public Instruction in 1967. Harry was known as a reformer of course and someone who cared deeply for Wyoming children.

In 1970, in one of the closest races in Wyoming's history, Harry lost a race for Wyoming's lone U.S. House race losing by only 608 votes to Teno Roncalio.

Harry was a leader in our State on issues that went well beyond education. He served as director of the Wyoming Heritage Foundation and counted many successes during an especially exciting and challenging time in our State's history.

It was at the Heritage Foundation that my wife, then Bobbi Brown, first met Harry and learned so much under his guidance for several years.

Harry personified the Wyoming Heritage Foundation's mission for a strong, prosperous, diverse and sustained economy for the citizens of Wyoming. His goals and initiative are felt to this day.

More recently after his retirement, he returned to Washington often to visit his daughter Susan and to see his son-in-law Craig Thomas.

Susan became a teacher of course, following in the footsteps of her father who held the profession so highly.

It was in May of 2004 that Senator Thomas hosted a very special reception along with Vice President Cheney here in Washington.

Craig invited Harry and his fellow ''plank owners'' to be recognized along with the dedication of the National World War II Memorial on the National Mall.

It was a special occasion to acknowledge and pay tribute to the duty, sacrifices, and valor of all the members of the Armed Forces of the United States who served in World War II.

And it was also for Harry and his fellow sailors.

I have talked to several folks who were there that day. I know the pride that Susan and Craig felt for their father, for his service, and for his example.

I will end now with the Navy Hymn, a song and a benediction that Harry would have heard often at sea in service to our country. I will recite the first and last verse.

Eternal Father, Strong to save,
Whose arm hath bound the restless wave,
Who bid'st the mighty Ocean deep
Its own appointed limits keep;
O hear us when we cry to thee,
for those in peril on the sea.

O Trinity of love and power!
Our brethren shield in danger's hour;
From rock and tempest, fire and foe,
Protect them where-so-ever they go;
Thus evermore shall rise to Thee,
Glad hymns of praise from land and sea.

REMEMBERING THE SHURRAB FAMILY

Mr. LEAHY. Mr. President, we have all seen the photographs of houses, schools and other civilian infrastructure destroyed in Gaza, and the reports of civilian deaths, including over 400 children, and many thousands more injured. Behind each of these statistics is a story of a family tragedy. I want to take this opportunity to talk about one that has touched the lives of Vermonters, and which should cause each of us deep concern.

Amer Shurrab is a recent graduate of Middlebury College, which is located not very far from my home in Vermont. Amer is also a Palestinian, whose family was living in Gaza during the recent Israeli invasion. His father, Muhammed Kassab Shurrah, is a farmer who grows fruits and vegetables on a small plot of land.

On January 16, Amer's father and brothers were returning home with provisions from their farm during the 3-hour humanitarian cease-fire that was in effect that day. Although there was apparently no indication that the route was unsafe for a civilian vehicle carrying civilian passengers, Israeli soldiers fired from a civilian house at their car as it passed for reasons that remain unknown. In a panic, Amer's brother, Kassab, already wounded, got out of the vehicle and was shot a total of 18 times and died a short distance away. Israeli bullets also hit Amer's father and younger brother Ibrahim, who were unable to leave the car to get medical attention because Israeli soldiers refused to allow movement in or out of the area.

Muhammed tried everything he could to save his son Ibrahim, who was bleeding to death before his eyes. He phoned a hospital with his cell phone, but the hospital told him the Israeli Army was

preventing an ambulance from reaching them. He called relatives, who contacted the Red Cross on his behalf to ask for assistance, but the Red Cross had to wait for assurance from Israeli authorities that an ambulance would get through unscathed, assurance which was not forthcoming. He spoke with several members of the press, including the BBC, who even broadcast his plea for help. But an ambulance could not reach them until 22 hours after the incident, even though the hospital was located less than a mile away. By this time, Ibrahim had died in his father's arms. Israeli troops reportedly looked on and ignored Muhammed's pleas for help.

This case cries out for an immediate, thorough, credible and transparent investigation by the Israeli Government. Any individuals determined to have violated the laws of war should be prosecuted and appropriately punished. In addition, it is important that the U.S. Embassy determine whether any Israeli soldiers who were equipped by the U.S. violated U.S. laws or agreements governing the use of U.S. equipment, both in relation to this incident and others involving civilian casualties. This should include the use of white phosphorous in heavily populated areas, which is alleged to have caused serious injuries to civilians.

Mr. President, this is a heartbreaking story. My thoughts and prayers go out to Amer Shurrab and his family and friends, and to the families of other civilians, Palestinian and Israeli, who died or suffered other grievous losses in this latest escalation of violence.

ADDITIONAL STATEMENTS

TRIBUTE TO CAROLYN E. ''BETSY'' FLYNN

• Mr. BUNNING. Mr. President, today I pay tribute to Carolyn E. ''Betsy'' Flynn of Benton, KY, for her recent appointment to the Federal Reserve Board's Consumer Advisory Council.

Mrs. Flynn currently serves as president and vice chairman of Community Financial Services Bank in Benton, KY, which manages around $400 million in assets. This institution has served the Benton community for almost 120 years and Mrs. Flynn has contributed to its success since 1976. For 24 years, Betsy Flynn has also instructed at the Barret School of Banking in Memphis, TN. Her public service record is extensive as well. She has served on several economic development boards, the city council, the chamber of commerce, the tourist commission, and has recently been appointed to the Kentucky Investment Commission.

The Consumer Advisory Council serves a vital role in advising the Federal Reserve Board on guidelines under the Consumer Credit Protection Act and issues regarding consumer financial services. Mrs. Flynn's impressive resume provides a solid foundation for her new role on the council. Her expertise in the banking and financial industry will serve her and the advisory council well.

I now ask my fellow colleagues to join me in congratulating Mrs. Flynn for her remarkable achievement. Kentucky and the entire country should be proud to have such a distinguished individual serving them.•

HONORING GEORGE FOREMAN

• Mr. BUNNING. Mr. President, today I wish to congratulate and recognize a distinguished citizen of Kentucky, Mr. George Foreman of Danville, who was recently named Danville Art Citizen of the Year by the Arts Commission of Danville/Boyle County.

This prestigious award is meant to identify an individual in the community who has made it possible for the arts to become an integral part in other people's lives. The Arts Commission of Danville/Boyle County issued the first Art Citizen of the Year award in 2004.

As managing director of the Norton Center for the Arts and Associate Professor at Centre College, Mr. Foreman has accomplished impressive things, including forming and directing Danville's own Advocate Brass Band, receiving the 1996 Bruce Montgomery Leadership Award, and also founding the Great American Brass Band Festival. There is no doubt that Mr. Foreman's service has made his community a better place because of his dedication to the arts and the citizens of his town.

During his years of service, Mr. Foreman has played host to all the major U.S. military bands, who presented their concerts free to the public. He also partnered with Stage One, a children's theatre in Louisville, to bring the Norton Center a children's theatre. Mr. Foreman has made the arts a central focus in his life, and I look forward to his future projects.

Once again, I congratulate Mr. Foreman on this award. He is truly an inspiration to all of Kentucky, and I wish him luck on all of his future endeavors.•

HONORING EAST RESTAURANT & LOUNGE

• Ms. SNOWE. Mr. President, I wish to recognize a small business in my home State of Maine that has risen to the top during its very short existence. East Restaurant & Lounge, located in Wells, was recently named one of the top Chinese restaurants in America—the first time a Maine restaurant has been recognized with such a distinction.

Opened in June 2008 by owner Ri Teng Li, East Restaurant & Lounge has quickly impressed its clients with delicious Chinese, Thai, and Japanese cuisine. Mr. Li previously owned and operated the popular Yum Mee Restaurant in Wells, and East Restaurant allows him to keep long-loved classic dishes from the prior establishment while greatly expanding his menu. With more than 400 items, ranging from Peking duck to sushi to Pad Thai, as well as an expansive and impressive buffet on Sundays, East has something for everyone. The restaurant also has a spacious lounge, where guests can relax after work and enjoy a specialty cocktail. And East offers catering services for a variety of events.

Perhaps most notable about East Restaurant is the building. It is housed in a striking and eye-catching structure, with a stunning interior full of beautiful decor, from ornate chandeliers and staircases to gorgeous glass doors. There is also a gift shop on the restaurant's upper level, with unique and rare gifts that include charming jewelry.

Despite its youth, East Restaurant has rapidly accumulated regular customers and well-deserved accolades. Most recently, Chinese Restaurant News, a San Francisco-based monthly publication dedicated to the more than 45,695 Chinese restaurant owners and operators across America, named East Restaurant as one of the top 10 Chinese restaurants for overall excellence in the United States, a truly remarkable feat. Restaurants were evaluated for eight categories, including decor and atmosphere, food quality, and sanitation. And because of its astonishing appearance, East Restaurant was recognized as the No. 1 establishment in the best decor category. Mr. Li was recently presented with the awards at a ceremony in Las Vegas earlier this month.

Mr. Li is an entrepreneur who has consistently aimed to improve each of his new ventures. He came to the United States in the mid-1980s with minimal knowledge of English and knowing hardly anyone. He began working at the restaurant of a friend of his in New York City, and through hard work, determination, and perseverance, Mr. Li realized his dream and opened his own restaurant. After moving to Maine, he established several other restaurants and now operates one in the neighboring town of Kennebunk, as well as a gift shop in Portland.

A civic-minded restaurateur, Mr. Li has constantly found ways to give back to the community. An avid contributor to the local Rotary Club and the Wells & Ogunquit Senior Center, Mr. Li has also donated to scholarship funds at Wells High School, where his daughter attends.

Mr. Li's marvelous story is a reminder of the benefits and rewards of commitment and resolve. His dedication to providing quality food in an inviting and distinctive atmosphere is commendable, and the results have been astounding. Congratulations to Mr. Li and everyone at East Restaurant & Lounge on their well-deserved acknowledgement, and I wish them many more years of success to come.•

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 4:50 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 181. A bill to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, January 28, 2009, she had presented to the President of the United States the following enrolled bill:

S. 181. An act to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to modify the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communication was laid before the Senate, together with accompanying papers, reports, and documents, and was referred as indicated:

EC–553. A communication from the Chair of the Board of Directors, Office of Compliance, transmitting, pursuant to Section 304(b)(3) of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1384(b)(3), a report relative to the adoption of Uniformed Services Employment and Reemployment Rights Act regulations; to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Eric H. Holder, Jr., of the District of Columbia, to be Attorney General.

By Mrs. FEINSTEIN for the Select Committee on Intelligence.

*Dennis Cutler Blair, of Pennsylvania, to be Director of National Intelligence.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. JOHNSON (for himself, Mr. ENZI, Mr. TESTER, Mr. THUNE, Mrs. MCCASKILL, Mr. DORGAN, Mr. NELSON of Nebraska, Mr. BARRASSO, and Mr. CONRAD):

S. 337. A bill to prohibit the importation of ruminants and swine, and fresh and frozen meat and products of ruminants and swine, from Argentina until the Secretary of Agriculture certifies to Congress that every region of Argentina is free of foot and mouth disease without vaccination; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. FEINSTEIN:

S. 338. A bill to amend the Omnibus Indian Advancement Act to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust and to provide for the conduct of certain activities on the land; to the Committee on Indian Affairs.

By Mr. BINGAMAN (for himself and Mrs. HUTCHISON):

S. 339. A bill to provide financial aid to local law enforcement officials along the Nation's borders, and for other purposes; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 340. A bill to enhance the oversight authority of the Comptroller General of the United States with respect to expenditures under the Troubled Asset Relief Program; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. STABENOW:

S. 341. A bill to amend the Economic Adjustment Assistance grant program to improve assistance for areas affected by long-term economic deterioration and severe economic dislocation relating to the manufacturing industry sector, to amend the Workforce Investment Act of 1998 to expand the national emergency grants program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI (for herself, Mr. BEGICH, and Mr. INOUYE):

S. 342. A bill to provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CASEY (for himself and Mr. BROWNBACK):

S. Res. 24. A resolution commending China's Charter 08 movement and related efforts for upholding the universality of human rights and advancing democratic reforms in China; to the Committee on Foreign Relations.

By Mr. DORGAN (for himself, Mr. SPECTER, Mr. LEAHY, Mr. KERRY, Ms. SNOWE, Mrs. FEINSTEIN, Mr. WICKER, and Mrs. BOXER):

S. Res. 25. A resolution expressing support for designation of January 28, 2009, as "National Data Privacy Day"; considered and agreed to.

By Mr. DODD (for himself, Mr. REID, Mr. LEAHY, Mr. LEVIN, Mr. CARDIN, Mr. HARKIN, Mr. MENENDEZ, Ms. LANDRIEU, Mr. KENNEDY, Mr. BENNET of Colorado, Mr. KERRY, Mr. BROWN, Mr. DURBIN, Mr. SCHUMER, Mr. LAUTENBERG, Mr. LUGAR, Mr. BAYH, Mr. WYDEN, Mr. CRAPO, Mrs. BOXER, Mr. VOINOVICH, Mr. REED, and Ms. MIKULSKI):

S. Con. Res. 3. A concurrent resolution honoring and praising the National Association for the Advancement of Colored People on the occasion of its 100th anniversary; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 96

At the request of Mr. VITTER, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 96, a bill to prohibit certain abortion-related discrimination in governmental activities.

S. 102

At the request of Mr. VITTER, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 102, a bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress.

S. 205

At the request of Mr. BINGAMAN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 205, a bill to authorize additional resources to identify and eliminate illicit sources of firearms smuggled into Mexico for use by violent drug trafficking organizations, and for other purposes.

S. 211

At the request of Mrs. MURRAY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services and volunteer services, and for other purposes.

S. 306

At the request of Mr. NELSON of Nebraska, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 306, a bill to promote biogas production, and for other purposes.

S. 313

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 313, a bill to resolve water rights claims of the White Mountain Apache Tribe in the State of Arizona, and for other purposes.

S. 321

At the request of Mr. VOINOVICH, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 321, a bill to require the Secretary of Homeland Security and the Secretary of State to accept passport cards at airports of entry and for other purposes.

S. 324

At the request of Mr. MENENDEZ, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 324, a bill to provide for research on, and services for individuals with, postpartum depression and psychosis.

S. 331

At the request of Mr. SCHUMER, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 331, a bill to increase the number of Federal law enforcement officials investigating and prosecuting financial fraud.

AMENDMENT NO. 46

At the request of Mr. KYL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of amendment No. 46 proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

AMENDMENT NO. 65

At the request of Mr. MARTINEZ, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of amendment No. 65 proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of amendment No. 65 proposed to H.R. 2, supra.

At the request of Mr. CORKER, his name was added as a cosponsor of amendment No. 65 proposed to H.R. 2, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSON (for himself, Mr. ENZI, Mr. TESTER, Mr. THUNE, Mrs. MCCASKILL, Mr. DORGAN, Mr. NELSON of Nebraska, Mr. BARRASSO, and Mr. CONRAD):

S. 337. A bill to prohibit the importation of ruminants and swine, and fresh and frozen meat and products of ruminants and swine, from Argentina until the Secretary of Agriculture certifies to Congress that every region of Argentina is free of foot and mouth disease without vaccination; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. JOHNSON. Mr. President, today I introduce the Foot and Mouth Disease Prevention Act of 2009 with my colleague from Wyoming, Senator MIKE ENZI, and with broad organizational support. I drafted this bill with one goal in mind: to keep America Foot and Mouth Disease, FMD, free.

The United States Department of Agriculture, USDA, under the Bush administration proposed throwing open our borders to Argentine livestock, fresh meat and fresh product. While the United States of America has been free of FMD without vaccination since 1929, Argentina has consistently struggled with the disease, experiencing outbreaks as recently as 2006. Argentina has failed to remain FMD free for any length of time and arguably lacks the infrastructure necessary for this proposal to fly. In fact, a 2001 outbreak in Argentina went unreported and was hidden by the Argentine government, raising serious questions regarding their communication on this front.

The Foot and Mouth Disease Prevention Act of 2009 doesn't interrupt the status quo. Argentina can import product that is dried or cooked, for example, that doesn't pose a risk for disease transmission. And we're not saying that increased trade is permanently prohibited. We are simply asking for Argentina to comply with certain acceptable standards for trade that would ensure the country as a whole is FMD free, and FMD free without vaccination. Additionally, our requirement that the Secretary of Agriculture ''certifies to Congress'' that Argentina as a country is free of FMD is merely a reporting process regarding Argentina's disease status.

Senator ENZI and I consulted extensively with nationally recognized livestock health experts on USDA's proposal. These livestock health experts resoundingly voiced their concern for USDA's plan, which fails to put American farmers and ranchers first. Dr. Sam Holland, South Dakota State Veterinarian and Past President of the National Assembly of State Animal Health Officials, NASAHO, has been instrumental with offering his guidance and expertise. A poll was taken within NASAHO and the majority of state veterinarians oppose regionalizing for FMD. While regionalization may be an appropriate approach in various other circumstances, it is unequivocally unacceptable in responding to Foot and Mouth Disease. An FMD outbreak in the United States is projected to cost our agricultural economy billions of dollars, and it is with good reason that the American Veterinary Medical Association, AVMA, has deemed FMD to be the most devastating of all livestock diseases.

USDA Animal and Plant Health Inspection Services, APHIS, arguably violated its own World Organization for Animal Health–complaint regionalization plan in proposing increased meat trade with Argentina. APHIS must address eleven points when initiating the regionalization process, including points six and seven which speak to the degree of separation of the region and the extent to which movement can be determined and controlled. Nationally recognized livestock health experts believe that in the case of regionalizing for FMD, sound scientific evidence argues against USDA's proposal.

This past fall, USDA APHIS Chief Veterinarian Dr. Clifford discussed with my staff his intention not to proceed with the Argentina plan until a review of the 2005 risk assessment was completed. It is my understanding that a team will be sent to Argentina to conduct this review in late February. Additionally, the new Administration is reviewing proposed rules, of which the Argentina plan is included. While both of these developments are encouraging, it is essential that we continue to communicate the potentially disastrous consequences of this plan.

Organizations across the agricultural industry support this legislation, including the American Sheep Industry Association, United States Cattlemen's Association, R–CALF, National Farmers Union, South Dakota Stockgrowers Association, South Dakota Cattlemen's Association, Wyoming Stock Growers Association, South Dakota Farmers Union, Women Involved in Farm Economics, and Dakota Rural Action.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

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

SOUTH DAKOTA
ANIMAL INDUSTRY BOARD,
Pierre, SD, January 27, 2009.

Hon. TIM JOHNSON,
U.S. Senator, Hart Office Building, Washington, DC.

DEAR SENATOR JOHNSON: As a follow-up to our conversation on Regionalization of Argentina for FMD:

As you recall NASAHO was overwhelmingly opposed to such regionalization during the last session of congress.

As I understand a more current review and risk assessment is planned regarding such regionalization. While a recent review will provide useful risk information, concerns remain.

Personally, the issues I stated in the past appear still valid.

(1) Economic benefits do not justify the risk of embarking on a regionalization for this disease.

(2) Inability to effectively monitor risk on an ongoing basis.

(3) Resources, Biosecurity, and experience in monitoring FMD freedom are inadequate.

(4) Regionalization for one of the world's most highly contagious virus disease(s) (FMD) is much more complicated than regionalization for tuberculosis, brucellosis and many other diseases. FMD virus is not only arguably the most contagious virus known for animals, but also is particularly resilient in the environment and may persist in fomites and be transmitted by such through aerosol or contact.

While I certainly support trade based on science, prioritization must occur. Regionalization efforts should start at home and resources should be spent on enhancing animal health in the United States, along with efforts to increase our exports, prior to spending precious resources in foreign countries in attempts to increase food imports.

Sincerely,

SAM D. HOLLAND,
State Veterinarian and Executive Secretary.

U.S. CATTLEMEN'S ASSOCIATION,
San Lucas, CA, January 28, 2009.

Hon. TIM JOHNSON,
Hon. MIKE ENZI,
U.S. Senate,
Washington, DC.

DEAR SIRS: The U.S. Cattlemen's Association (USCA) applauds your leadership in introducing the Foot and Mouth Disease Prevention Act. This bill would prohibit the importation of ruminants and swine and fresh or frozen ruminant and pork products from any region of Argentina until the United States Department of Agriculture (USDA) can certify to Congress that Argentina is free of Foot and Mouth Disease (FMD).

This bill is extremely important as it protects the U.S. cattle herd from FMD. If FMD

infiltrates our borders, entire herds would be destroyed leaving ranchers in financial ruin. Furthermore, the scare would immediately shut global markets to U.S. beef products, a move that would have a disastrous economic effect on rural economies.

The American Veterinary Medical Association has deemed FMD the most economically devastating of all livestock disease. A recent study by Kansas State University found that an outbreak of FMD would cost the State of Kansas alone nearly $1 billion.

Despite the risks, the Department of Agriculture continues to consider the implementation of a regionalized beef trade plan with Argentina. FMD is an airborne disease that will not stop at an imaginary border controlled by a foreign nation. Argentina has proven time and time again that it does not have America's best interests at heart. This is a country that has attacked U.S. agriculture in the World Trade Organization (WTO) and has intentionally turned its back on, and still refuses to pay, billions in U.S. loans despite U.S. court judgments mandating it do so.

USCA is committed to working with you and moving this bill forward by garnering support both on Capitol Hill and in the country. USCA is firmly resolved to ensuring the U.S. cattle industry is protected by the highest import standards possible, and to seeing that this bill becomes law.

Sincerely,

JON WOOSTER,
President.

NATIONAL FARMERS UNION,
Washington, DC, January 27, 2009.

Hon. TIM JOHNSON,
U.S. Senate,
Washington D.C.

DEAR SENATOR JOHNSON: On behalf of the family farmers, ranchers and rural residents of National Farmers Union (NFU), I write in strong support of your legislation to prohibit the importation of Argentine ruminants, swine, fresh and frozen meat, and fresh and frozen products from ruminants and swine until the U.S. Department of Agriculture (USDA) Secretary certifies the country Foot and Mouth Disease (FMD) free without vaccination. I applaud your leadership to ensure all measures are employed to protect the American livestock industry and consumer confidence in our meat supply.

The ban proposed in your legislation is necessary in order to prevent jeopardizing our own efforts to eradicate livestock diseases, and thereby protecting the food supply. Your legislation enhances food safety through requiring every region of Argentina to be FMD-free without vaccination before exporting ruminants, swine and meat products to the United States.

FMD is a highly infectious virus that, if introduced into the United States, could contaminate entire herds and leave producers in financial ruin, as infected herds must be culled to prevent the spread of the disease. FMD is so devastating the American Veterinary Medical Association considers it to be the most economically destructive of all livestock diseases. The United States suffered nine outbreaks of FMD in the early twentieth century, but has been FMD-free since 1929. According to USDA's Animal and Plant Health Inspection Service, the economic impacts of a re-occurrence of FMD in the United States could cost the economy billions of dollars in the first year alone.

America's family farmers and ranchers produce the safest, most abundant food supply in the world. FMD presents a very real threat to American agriculture and its introduction into the United States can and must be prevented. Requiring a country like Argentina, with such an apparent problem with this devastating disease, to prove FMD-free status is an acceptable standard to trade. Opening our borders to Argentine ruminant products is a risk that American producers simply cannot afford. Your legislation is needed to ensure harmful products are not allowed into the United States and that Argentina is not an exception to the rule.

I thank you for introducing this important legislation, and look forward to working with you to ensure its passage.

Sincerely,

TOM BUIS,
President, National Farmers Union.

R-CALF
UNITED STOCKGROWERS OF AMERICA,
Billings, MT, January 26, 2009.

Hon. TIM JOHNSON,
U.S. Senate,
Washington, DC.
Hon. MIKE ENZI,
U.S. Senate,
Washington, DC.

DEAR SENATORS JOHNSON AND ENZI: On behalf of the thousands of cattle-producing members of R-CALF USA located throughout the United States, we greatly appreciate and strongly support the reintroduction in the 111th Congress of your joint legislation to prohibit the importation of certain animals and animal products from Argentina until every region of Argentina is free of foot-and-mouth disease (FMD) without vaccination.

Foot-and-mouth disease is recognized internationally as one of the most contagious diseases of cloven-hoofed animals and it bears the potential to cause severe economic losses to U.S. cattle producers. Your legislation recognizes that the most effective prevention measure against this highly contagious disease is to ensure that it is not imported into the United States from countries where FMD is known to exist or was recently detected.

R-CALF USA stands ready to assist you in building both industry and congressional support for this important disease-prevention measure. Thank you for reintroducing this needed legislation in the 111th Congress to protect the U.S. cattle industry from the unnecessary and dangerous exposure to FMD from Argentinean imports.

Sincerely,

R.M. THORNSBERRY,
President,

SOUTH DAKOTA
CATTLEMEN'S ASSOCIATION,
January 26, 2009.

Senator TIM JOHNSON,
Hart Senate Office Building,
Washington, DC.
Senator MIKE ENZI,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS JOHNSON AND ENZI: I'm writing on behalf of the 1,000 beef producer members of the South Dakota Cattlemen's Association (SDCA) to express support for the Foot and Mouth Disease Prevention Act of 2009. In light of numerous unanswered questions regarding the status of Foot and Mouth Disease in Argentina, we believe passage of the Foot and Mouth Disease Prevention Act is critical to ensure this devastating disease doesn't enter the U.S. cattle herd through the importation of Argentine cattle and beef products.

SDCA supports free and fair trade based on OIE standards that will protect the health of our cattle herd and the economic livelihood of our cattlemen. Our top trade priority is to regain market access for U.S. beef in order to recapture the lost value of exports that occurred after the occurrence of BSE in 2003. To that end, we've worked closely with elected and regulatory officials to ensure adequate measures are taken to protect our herd health and maintain consumer confidence in U.S. beef.

We commend your willingness to stand up for South Dakota's beef producers and look forward to working with you on this important issue.

Regards,

JODIE HICKMAN,
Executive Director.

By Mrs. FEINSTEIN:

S. 338. A bill to amend the Omnibus Indian Advancement Act to modify the date as of which certain tribal land of the Lytton Rancheria of California is deemed to be held in trust and to provide for the conduct of certain activities on the land; to the Committee on Indian Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to reintroduce the Lytton Gaming Oversight Act, a bill that will ensure federal law is followed when a Native American tribe seeks to operate any new gaming facilities.

This legislation is simple, straightforward, and fair. It would amend language inserted in the Omnibus Indian Advancement Act of 2000 that required the Secretary of the Interior to take a card club and adjacent parking lot in the San Francisco Bay Area into trust for the Lytton tribe as their reservation. That legislation also required that the acquisition be backdated to October 17, 1988, before the passage of the Indian Gaming Regulatory Act, IGRA.

The ''two-part'' determination process in the Indian Gaming Regulatory Act is a critical component to tribal land acquisition for gaming purposes and should not be circumvented. Specifically, it requires the Governor's consent and the Secretary of the Interior to consult with nearby tribes and the local community and its representatives.

The legislation that I am introducing would require the Lytton Band of Pomo Indians to follow these same critical oversight guidelines laid out in Section 20 of the Indian Gaming Regulatory Act before engaging in Class III, or Nevada-style, gaming on land acquired after the passage of IGRA in 1988.

The bill allows the tribe to continue operating a Class II facility at the current site provided the tribe follows IGRA regulations for gaming on newly-acquired lands in the future. The bill also precludes any expansion of the tribe's current Class II facility.

The bill would not modify or eliminate the tribe's federal recognition status, alter the trust status of the new reservation, or take away the tribe's ability to conduct gaming through the standard process prescribed by the Indian Gaming Regulatory Act. The bill serves only to restore the jurisdiction of IGRA over the gaming process, as originally intended by Congress.

Section 20 of the Indian Gaming Regulatory Act provides an established and clear process for gaming on newly-

acquired lands taken into trust after the enactment of IGRA in 1988. The ''two-part determination'' process allows for federal and state approval, and for input from nearby tribes and local communities.

Circumventing this process can have negative and severe impacts on local citizens and deprive local and tribal governments of their ability to represent their communities on an incredibly important and contentious issue.

If this bill is not approved, the Lytton tribe could take the former card club that serves as their reservation and turn it into a large gaming complex operating outside the regulations set up by the Indian Gaming Regulatory Act. In fact, this is exactly what was proposed in the summer of 2004.

I am pleased that the tribe has abandoned a plan seeking a sizable Class III casino, but without this legislation the tribe could reverse these plans at any time. Allowing this to happen would set a dangerous precedent in California and any state where tribal gaming is permitted.

Instead, Congress should reaffirm its intent that all new gaming facilities should be subject to IGRA without preference or prejudice.

Ms. MURKOWSKI (for herself, Mr. BEGICH, and Mr. INOUYE):

S. 342. A bill to provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces; to the Committee on Armed Services.

Ms. MURKOWSKI. Last Thursday evening I came to the floor to speak to a decision by the United States Army, I understand at the urging of the Department of Defense, to reverse its position on whether service in the Alaska Territorial Guard during World War II is creditable toward military retirement. I have asked repeatedly for a copy of the legal opinion supporting this decision. I am still waiting.

One of the most troubling aspects of the decision was that it was to come into effect on February 1, 2009, in the dead of Alaska winter, and without any advance warning to those affected. The decision reduces the retirement pay received by 25 or 26 former members of the Territorial Guard by as much as $557 a month for one individual. The reduction in retirement pay to several others exceeds $500 a month. That is a substantial loss of income at any time of the year but it is especially difficult during the winter.

This afternoon, Pete Geren, the Secretary of the Army, announced that the Army would make a onetime gratuitous payment from funds appropriated to cover emergency and extraordinary expenses to these individuals, representing 2 months of the difference between what each would receive if service in the Alaska Territorial Guard were included in the retirement pay calculation and what each will receive as a retirement check beginning on February 1, 2009. I deeply appreciate Secretary Geren's compassionate decision. Increases in the cost of food and heat are making it very difficult for our Native people in rural Alaska to make ends meet this winter. I understand that the vast majority, if not the entire list of people who will receive this additional payment live in the villages of rural Alaska.

However, I remain disappointed that the Army cannot continue its policy of paying retirement benefits on account of Alaska Territorial Guard service. Today I join with my colleagues in introducing legislation that clarifies that service in the Alaska Territorial Guard during World War II is creditable toward military retirement.

Since I raised this issue on the floor last Thursday evening the response I have received from around the country has been nothing but overwhelming. I deeply appreciate all of those who have called and written to express their support for our efforts to protect the benefits that the members of our Alaska Territorial Guard earned through their legendary service.

Mr. President, I ask unanimous consent that the text of the bill and supporting material be printed in the RECORD.

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

S. 342

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

SECTION 1. TREATMENT AS ACTIVE SERVICE FOR RETIRED PAY PURPOSES OF SERVICE AS A MEMBER OF THE ALASKA TERRITORIAL GUARD DURING WORLD WAR II.

(a) IN GENERAL.—Service as a member of the Alaska Territorial Guard during World War II of any individual who was honorably discharged therefrom under section 8147 of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 705) shall be treated as active service for purposes of the computation under chapter 71, 371, or 1223 of title 10, United States Code, as applicable, of the retired pay to which such individual may be entitled under title 10, United States Code.

(b) APPLICABILITY.—Subsection (a) shall apply with respect to amounts of retired pay payable under title 10, United States Code, for months beginning on or after August 9, 2000. No retired pay shall be paid to any individual by reason of subsection (a) for any period before that date.

(c) WORLD WAR II DEFINED.—In this section, the term ''World War II'' has the meaning given that term in section 101(8) of title 38, United States Code.

[From the Anchorage Daily News, Jan. 25, 2009]

FIX THIS NOW—CUT IS NO WAY TO TREAT OLD VETS

The Army has decided that some veterans of the World War II Alaska Territorial Guard have been mistakenly drawing retirement pay. So they've cut off some men in their 80s who worked for nothing to defend Alaska during the war. The argument is that a law that recognized their service was only intended to provide benefits like health care, not retirement pay. The Army says the law was misinterpreted. Then the Army should stand by its misinterpretation and pay these men. They're in their 80s. They served their country at a time when neither their country nor their territory fully recognized their rights because they were Natives. Their guard service should count toward retirement pay out of sheer decency. Sens. Lisa Murkowski and Mark Begich are working on legislation to make the misinterpretation stand by making it the law. Good. We don't care if the means is legislation, executive order, administrative waiver or papal dispensation. Just fix this so that some old men who did honorable service get their due. Now. These soldiers earned their retirement pay. They should receive it.

[From the Fairbanks Daily News-Miner, Jan. 25, 2009]

CREDIT FOR SERVICE: RESTORE RETIREMENT PAY TO THE ESKIMO SCOUTS

The wheels of bureaucracy turn slowly, but they grind no less thoroughly for their lack of speed. Unless the federal administration and Alaska's congressional delegation can reverse a recent decision, retirement pensions for a few dozen old soldiers from Alaska's Territorial Guard will fall victim to those wheels. The question of whether service in the Territorial Guard—better known as the Eskimo Scouts—counted as active-duty service for purposes of calculating military retirement pay was answered years ago. In 2001, Congress said yes, it counts. At least that's what most people thought Congress said. The Department of Defense, for example, concluded as much and began sending retirement checks to elderly Alaskans based on their service as Eskimo Scouts. Recently, the Department of Defense reversed its decision. It now asserts that the law requires credit when calculating military benefits such as health care—but not when calculating retirement pay. So, as of Feb. 1, according to the congressional delegation, retirement benefits will be cut by more than $500 per month in some cases. An Army spokesman said the decision simply reinterprets the 2001 law as it should have been all along. If that's the case, the law should be clarified. That could take some time for the congressional delegation to accomplish, though. In the meantime, the Defense Department needs to find a better solution than simply cutting the pay to a group of elderly military pensioners. The issue arises because the Eskimo Scouts from 1942 to 1947 were volunteers. Their service was no less real than others in the military, especially since they worked in Alaska, the only place in the country where enemy forces successfully occupied territory during World War II. The Japanese held several islands in the Aleutian chain and bombed Dutch Harbor. It was real military service; those who signed up deserve full credit for it, as Congress intended.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 24—COMMENDING CHINA'S CHARTER 08 MOVEMENT AND RELATED EFFORTS FOR UPHOLDING THE UNIVERSALITY OF HUMAN RIGHTS AND ADVANCING DEMOCRATIC REFORMS IN CHINA

Mr. CASEY (for himself and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 24

Whereas the People's Republic of China adopted in 1971 the Universal Declaration of Human Rights, and has signed or ratified numerous international covenants and conventions protecting human rights, including the International Covenant on Civil and Political Rights, done at New York December 16, 1966, and entered into force March 23, 1976, the International Covenant on Economic, Social and Cultural Rights, done at New York December 16, 1966, and entered into force January 3, 1976, and the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984, and entered into force June 26, 1987, among others;

Whereas the Constitution of the People's Republic of China ''protects and guarantees human rights'' by providing citizens with equality under the law, freedom of speech, press, assembly, association, procession, and demonstration, the right to own and inherit private property, freedom of religion, equality for women, and numerous other rights consistent with the Universal Declaration of Human Rights and other international human rights conventions and covenants;

Whereas, since 1991, the Governments of the United States and China have held 13 Human Rights Dialogues, the most recent of which took place in May 2008 in Beijing;

Whereas, in January 1977, more than 200 citizens of Czechoslovakia, representing different professions, faiths, and beliefs, formed a ''loose, informal, and open association of people... united by the will to strive individually and collectively for respect for human and civil rights'' and issued a document called Charter 77, which called on their government to protect basic civic and human rights as enshrined under national laws;

Whereas, inspired by the Charter 77 movement, on December 10, 2008, an informal group of more than 300 citizens of China from a wide array of backgrounds, professions, faiths, and beliefs issued a public statement entitled ''Charter 08'', a 19-point plan calling for greater rights and political reform in China, increased liberties, democracy, religious freedom, and rule of law;

Whereas authorities in China have detained several affiliates of that Charter 08 effort, including Liu Xiaobo, who remains in custody;

Whereas the Department of State has called on the Government of China to release Liu Xiaobo and cease harassment of all Chinese citizens who peacefully express their desire for internationally-recognized fundamental freedoms; and

Whereas thousands of individuals have added their names to the Charter 08 petition, and the document has been referenced in over 300,000 websites and blogs: Now, therefore, be it

Resolved, That the Senate—

(1) notes the numerous commitments the China has made to the international community as a signatory to the United Nations Universal Declaration of Human Rights and other international conventions;

(2) commends the citizens of China who have signed onto Charter 08 and are upholding principles consistent with China's international commitments on human rights and its own constitution;

(3) calls on the Government of China to release all people detained because of their involvement or affiliation with the Charter 08 effort, including Liu Xiaobo, in addition to all prisoners of conscience detained in violation of the domestic law and international commitments of China; and

(4) calls on President Barack Obama and Secretary of State Hillary Clinton to engage with the Government of China on human rights issues at every reasonable opportunity and using all diplomatic means available, including the U.S.-China Human Rights Dialogue, and resist pressure to replace this dialogue with a weaker alternative.

SENATE RESOLUTION 25—EXPRESSING SUPPORT FOR DESIGNATION OF JANUARY 28, 2009, AS ''NATIONAL DATA PRIVACY DAY''

Mr. DORGAN (for himself, Mr. SPECTER, Mr. LEAHY, Mr. KERRY, Ms. SNOWE, Mrs. FEINSTEIN, Mr. WICKER, and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 25

Whereas the Internet and the capabilities of modern technology cause data privacy issues to figure prominently in the lives of many people in the United States at work, in their interaction with government and public authorities, in the health field, in e-commerce transactions, and online generally;

Whereas many individuals are unaware of data protection and privacy laws generally and of specific steps that can be taken to help protect the privacy of personal information online;

Whereas ''National Data Privacy Day'' constitutes an international collaboration and a nationwide and statewide effort to raise awareness about data privacy and the protection of personal information on the Internet;

Whereas government officials from the United States and Europe, privacy professionals, academics, legal scholars, representatives of international businesses, and others with an interest in data privacy issues are working together on this date to further the discussion about data privacy and protection;

Whereas privacy professionals and educators are being encouraged to take the time to discuss data privacy and protection issues with teens in high schools across the country;

Whereas privacy is a central element of the mission of the Federal Trade Commission and the Commission will need to continue to educate consumers about protecting their personal information, and their consumer education campaigns should be part of a National effort;

Whereas the recognition of ''National Data Privacy Day'' will encourage more people nationwide to be aware of data privacy concerns and to take steps to protect their personal information online; and

Whereas January 28, 2009, would be an appropriate day to designate as ''National Data Privacy Day'': Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of a ''National Data Privacy Day'';

(2) encourages State and local governments to observe the day with appropriate activities that promote awareness of data privacy;

(3) encourages privacy professionals and educators to discuss data privacy and protection issues with teens in high schools across the United States; and

(4) encourages individuals across the Nation to be aware of data privacy concerns and to take steps to protect their personal information online.

SENATE CONCURRENT RESOLUTION 3—HONORING AND PRAISING THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ON THE OCCASION OF ITS 100TH ANNIVERSARY

Mr. DODD (for himself, Mr. REID, Mr. LEAHY, Mr. LEVIN, Mr. CARDIN, Mr. HARKIN, Mr. MENENDEZ, Ms. LANDRIEU, Mr. KENNEDY, Mr. BENNET of Colorado, Mr. KERRY, Mr. BROWN, Mr. DURBIN, Mr. SCHUMER, Mr. LAUTENBERG, Mr. LUGAR, Mr. BAYH, Mr. WYDEN, Mr. CRAPO, Mrs. BOXER, Mr. VOINOVICH, Mr. REED, and Ms. MIKULSKI) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 3

Whereas the National Association for the Advancement of Colored People (referred to in this resolution as the ''NAACP''), originally known as the National Negro Committee, was founded in New York City on February 12, 1909, the centennial of Abraham Lincoln's birth, by a multiracial group of activists who met in a national conference to discuss the civil and political rights of African-Americans;

Whereas the NAACP was founded by a distinguished group of leaders in the struggle for civil and political liberty, including Ida Wells-Barnett, W.E.B. DuBois, Henry Moscowitz, Mary White Ovington, Oswald Garrison Villard, and William English Walling;

Whereas the NAACP is the oldest and largest civil rights organization in the United States;

Whereas the mission of the NAACP is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination;

Whereas the NAACP is committed to achieving its goals through nonviolence;

Whereas the NAACP advances its mission through reliance upon the press, the petition, the ballot, and the courts, and has been persistent in the use of legal and moral persuasion, even in the face of overt and violent racial hostility;

Whereas the NAACP has used political pressure, marches, demonstrations, and effective lobbying to serve as the voice, as well as the shield, for minority Americans;

Whereas after years of fighting segregation in public schools, the NAACP, under the leadership of Special Counsel Thurgood Marshall, won one of its greatest legal victories in the Supreme Court's decision in Brown v. Board of Education, 347 U.S. 483 (1954);

Whereas in 1955, NAACP member Rosa Parks was arrested and fined for refusing to give up her seat on a segregated bus in Montgomery, Alabama—an act of courage that would serve as the catalyst for the largest grassroots civil rights movement in the history of the United States;

Whereas the NAACP was prominent in lobbying for the passage of the Civil Rights Acts of 1957, 1960, and 1964, the Voting Rights Act of 1965, the Fannie Lou Hamer, Rosa Parks, Coretta Scott King, César E. Chávez, Barbara C. Jordan, William C. Velásquez, and Dr. Hector P. Garcia Voting Rights Act Reauthorization and Amendments Act of 2006, and the Fair Housing Act, laws that ensured Government protection for legal victories achieved;

Whereas in 2005, the NAACP launched the Disaster Relief Fund to help survivors in Louisiana, Mississippi, Texas, Florida, and Alabama to rebuild their lives;

Whereas in the 110th Congress, the NAACP was prominent in lobbying for the passage of H. Res. 826, whose resolved clause expresses that: (1) the hanging of nooses is a horrible act when used for the purpose of intimidation and which under certain circumstances can be criminal; (2) this conduct should be investigated thoroughly by Federal authorities; and (3) any criminal violations should be vigorously prosecuted; and

Whereas in 2008 the NAACP vigorously supported the passage of the Emmett Till Unsolved Civil Rights Crime Act of 2007 (28 U.S.C. 509 note), a law that puts additional Federal resources into solving the heinous crimes that occurred in the early days of the civil rights struggle that remain unsolved and bringing those who perpetrated such crimes to justice: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes the 100th anniversary of the historic founding of the National Association for the Advancement of Colored People; and

(2) honors and praises the National Association for the Advancement of Colored People on the occasion of its anniversary for its work to ensure the political, educational, social, and economic equality of all persons.

AMENDMENTS SUBMITTED AND PROPOSED

SA 74. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table.

SA 75. Mr. ROBERTS (for himself, Mr. HATCH, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 76. Mr. ROBERTS (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 77. Ms. MURKOWSKI (for herself, Mr. SPECTER, Mr. JOHANNS, and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra.

SA 78. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 79. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 80. Mr. HATCH (for himself, Mr. VITTER, Mr. BROWNBACK, Mr. THUNE, Mr. BENNETT, Mr. JOHANNS, Mr. DEMINT, Mr. ROBERTS, Mr. RISCH, Mr. INHOFE, Mr. BARRASSO, Mr. GREGG, Mr. ENSIGN, Mr. GRASSLEY, Mr. MARTINEZ, Mr. MCCAIN, Mr. ENZI, Mr. CRAPO, Mr. CORKER, Mr. KYL, Mr. GRAHAM, Mr. COBURN, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 81. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 74. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 75, strike line 18 and all that follows through page 76, line 2, and insert the following:

''(B) INCREASED FUNDING FOR OUTREACH AND ENROLLMENT GRANTS.—

''(i) APPROPRIATION.—In addition to amounts appropriated under subsection (g) of section 2113 for the period of fiscal years 2009 through 2013, there is appropriated, out of any money in the Treasury not otherwise appropriated, the amount described in clause (ii), for the purpose of the Secretary awarding grants under that section.

''(ii) AMOUNT DESCRIBED.—The amount described in this clause is the amount equal to the amount of additional Federal funds that the Director of the Congressional Budget Office certifies would have been expended for the period beginning April 1, 2009, and ending September 30, 2013, if subparagraph (A) did not apply to any State that, on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2009, has an approved State plan amendment or waiver to provide, or has enacted a State law to submit a State plan amendment to provide, expenditures described in such subparagraph under the State child health plan.''.

SA 75. Mr. ROBERTS (for himself, Mr. HATCH, and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Strike section 114 and insert the following:

SEC. 114. LIMITATION ON FEDERAL MATCHING PAYMENTS.

(a) DENIAL OF FEDERAL MATCHING PAYMENTS FOR COVERAGE OF HIGHER INCOME CHILDREN.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) DENIAL OF PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE FOR HIGHER INCOME CHILDREN.—

''(A) IN GENERAL.—No payment may be made under this section for any expenditures for providing child health assistance or health benefits coverage under a State child health plan under this title, including under a waiver under section 1115, with respect to any child whose gross family income (as defined by the Secretary) exceeds the lower of—

''(i) $65,000; or

''(ii) the median State income (as determined by the Secretary).

''(B) NO PAYMENTS FROM ALLOTMENTS UNDER THIS TITLE IF MEDICAID INCOME ELIGIBILITY LEVEL FOR CHILDREN IS GREATER.—No payment may be made under this section from an allotment of a State for any expenditures for a fiscal year quarter for providing child health assistance or health benefits coverage under the State child health plan under this title to any individual if the income eligibility level (expressed as a percentage of the poverty line) for children who are eligible for medical assistance under the State plan under title XIX under any category specified in subparagraph (A) or (C) of section 1902(a)(10) in effect during such quarter is greater than the income eligibility level (as so expressed) for children in effect during such quarter under the State child health plan under this title.''.

SA 76. Mr. ROBERTS (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007 (CHIPRA II).

The text of the Children's Health Insurance Program Reauthorization Act of 2007 (H.R. 3963, 110th Congress) as passed by the Senate on November 1, 2007, is hereby incorporated by reference.

SA 77. Ms. MURKOWSKI (for herself, Mr. SPECTER, Mr. JOHANNS, and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS AND COVERAGE OF LOW INCOME CHILDREN.

(a) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Section 2107 (42 U.S.C. 1397gg) is amended by adding at the end the following:

''(g) DEVELOPMENT OF BEST PRACTICE RECOMMENDATIONS.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with States, including Medicaid and CHIP directors in States, shall publish in the Federal Register, and post on the public website for the Department of Health and Human Services—

''(1) recommendations regarding best practices for States to use to address CHIP crowd-out; and

''(2) uniform standards for data collection by States to measure and report—

''(A) health benefits coverage for children with family income below 200 percent of the poverty line; and

''(B) on CHIP crowd-out, including for children with family income that exceeds 200 percent of the poverty line.

The Secretary, in consultation with States, including Medicaid and CHIP directors in States, may from time to time update the best practice recommendations and uniform standards set published under paragraphs (1) and (2) and shall provide for publication and posting of such updated recommendations and standards.''.

(b) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 601(a), is further amended by adding at the end the following new paragraph:

''(12) LIMITATION ON PAYMENTS FOR STATES COVERING HIGHER INCOME CHILDREN.—

''(A) DETERMINATIONS.—

''(i) IN GENERAL.—The Secretary shall determine, for each State that is a higher income eligibility State as of October 1 of 2010 and each subsequent year, whether the State meets the target rate of coverage of low-income children required under subparagraph (C) and shall notify the State in that month of such determination.

''(ii) DETERMINATION OF FAILURE.—If the Secretary determines in such month that a higher income eligibility State does not meet such target rate of coverage, no payment shall be made as of April 30 of the following year, under this section for child health assistance provided for higher-income children (as defined in subparagraph (D)) under the State child health plan unless and until the Secretary establishes that the

State is in compliance with such requirement, but in no case more than 12 months.

''(B) HIGHER INCOME ELIGIBILITY STATE.—A higher income eligibility State described in this clause is a State that—

''(i) applies under its State child health plan an eligibility income standard for targeted low-income children that exceeds 300 percent of the poverty line; or

''(ii) because of the application of a general exclusion of a block of income that is not determined by type of expense or type of income, applies an effective income standard under the State child health plan for such children that exceeds 300 percent of the poverty line.

''(C) REQUIREMENT FOR TARGET RATE OF COVERAGE OF LOW-INCOME CHILDREN.—The requirement of this subparagraph for a State is that the rate of health benefits coverage (both private and public) for low-income children in the State is not statistically significantly (at a p=0.05 level) less than 80 percent of the low-income children who reside in the State and are eligible for child health assistance under the State child health plan.

''(D) HIGHER-INCOME CHILD.—For purposes of this paragraph, the term 'higher income child' means, with respect to a State child health plan, a targeted low-income child whose family income—

''(i) exceeds 300 percent of the poverty line; or

''(ii) would exceed 300 percent of the poverty line if there were not taken into account any general exclusion described in subparagraph (B)(ii).''.

(2) CONSTRUCTION.—Nothing in the amendment made by paragraph (1) or this section this shall be construed as authorizing the Secretary of Health and Human Services to limit payments under title XXI of the Social Security Act in the case of a State that is not a higher income eligibility State (as defined in section 2105(c)(12)(B) of such Act, as added by paragraph (1)).

SA 78. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, between lines 11 and 12, and insert the following:

''(3) EXCEPTION.—

''(A) IN GENERAL.—Notwithstanding paragraph (1)(B), if a State submits, by not later than 18 months after the date of enactment of this paragraph, a plan to the Secretary that the Secretary determines is likely to reduce the levels of improper payments for the State under the Medicaid program under title XIX and the program under this title, such paragraph shall be applied with respect to such State by substituting 'second succeeding fiscal year' for 'succeeding fiscal year'.

''(B) DETERMINATION.—In making the determination under subparagraph (A), the Secretary shall take into account the results of the study conducted under paragraph (4).

''(4) GAO STUDY AND REPORT ON IMPROPER PAYMENTS UNDER THE MEDICAID AND CHIP PROGRAMS AND WAYS TO REDUCE SUCH IMPROPER PAYMENTS.—

''(A) STUDY.—The Comptroller General of the United States shall conduct a study on—

''(i) the mechanisms that States are currently using to reduce improper payments under the Medicaid program under title XIX the program under this title;

''(ii) the levels of such improper payments for each State; and

''(iii) the mechanisms that States should implement in order to reduce such improper payments.

''(B) REPORT.—Not later than 12 months after the date of enactment of this paragraph, the Comptroller General of the United States shall submit a report to Congress on the study conducted under subsection (a) together with such recommendations as the Comptroller General determines appropriate.''.

SA 79. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

After section 622 insert the following:

SEC. 623. ONE-TIME PROCESS FOR HOSPITAL WAGE INDEX RECLASSIFICATION IN ECONOMICALLY-DISTRESSED AREAS.

(a) RECLASSIFICATIONS.—

(1) Notwithstanding any other provision of law, effective for discharges occurring on or after April 1, 2009, and before March 31, 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to St. Vincent Mercy Medical Center (provider number 36-0112), such hospital is deemed to be located in the Ann Arbor, MI metropolitan statistical area.

(2) Notwithstanding any other provision of law, effective for discharges occurring on or after April 1, 2009 and before March 31, 2012, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to St. Elizabeth Health Center (provider number 36-0064), Northside Medical Center (provider number 36-3307), St. Joseph Health Center (provider number 36-0161), and St. Elizabeth Boardman Health Center (provider number 36-0276), such hospitals are deemed to be located in the Cleveland-Elyria-Mentor metropolitan statistical area.

(b) RULES.—

(1) Except as provided in paragraph (2), any reclassification made under subsection (a) shall be treated as a decision of the Medicare Geographic Classification Review Board under section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)).

(2) Section 1886(d)(10)(D)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)(v)), as it relates to reclassification being effective for 3 fiscal years, shall not apply with respect to a reclassification made under subsection (a).

SEC. 624. TREATMENT OF CERTAIN CANCER HOSPITALS.

(a) IN GENERAL.—

(1) TREATMENT.—Section 1886(d)(1)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(v)) is amended—

(A) in subclause (II), by striking ''or'' at the end;

(B) in subclause (III), by striking the semicolon at the end and inserting '', or''; and

(C) by inserting after subclause (III) the following new subclause:

''(IV) a hospital—

''(aa) that the Secretary has determined to be, at any time on or before December 31, 2011, a hospital involved extensively in treatment for, or research on, cancer,

''(bb) that is a free standing hospital, the construction of which had commenced as of December 31, 2008; and

''(cc) whose current or predecessor provider entity is University Hospitals of Cleveland (provider number 36-0137).''.

(2) INITIAL DETERMINATION.—

(A) A hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a), shall not qualify as a hospital described in such subclause unless the hospital petitions the Secretary of Health and Human Services for a determination of such qualification on or before December 31, 2011.

(B) The Secretary of Health and Human Services shall, not later than 30 days after the date of a petition under subparagraph (A), determine that the petitioning hospital qualifies as a hospital described in such subclause (IV) if not less than 50 percent of the hospital's total discharges since its commencement of operations have a principal finding of neoplastic disease (as defined in section 1886(d)(1)(E) of such Act (42 U.S.C. 1395ww(d)(1)(E))).

(b) APPLICATION.—

(1) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The provisions of section 412.22(e) of title 42, Code of Federal Regulations, shall not apply to a hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a).

(2) APPLICATION TO COST REPORTING PERIODS.—If the Secretary makes a determination that a hospital is described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a), such determination shall apply as of the first full 12-month cost reporting period beginning on January 1 immediately following the date of such determination.

(3) BASE PERIOD.—Notwithstanding the provisions of section 1886(b)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(E)) or any other provision of law, the base cost reporting period for purposes of determining the target amount for any hospital for which such a determination has been made shall be the first full 12-month cost reporting period beginning on or after the date of such determination.

(4) REQUIREMENT.—A hospital described in subclause (IV) of section 1886(d)(1)(B)(v) of the Social Security Act, as inserted by subsection (a), shall not qualify as a hospital described in such subclause for any cost reporting period in which less than 50 percent of its total discharges have a principal finding of neoplastic disease (as defined in section 1886(d)(1)(E) of such Act (42 U.S.C. 1395ww(d)(1)(E))).

SEC. 625. RECONCILIATION AND RECOVERY OF ALL SERVICE-CONCLUDED MEDICARE FEE-FOR-SERVICE DISEASE MANAGEMENT PROGRAM FUNDING.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall provide for the immediate reconciliation and recovery of all service-concluded Medicare fee-for-service disease management program funding.

SA 80. HATCH (for himself, Mr. VITTER, Mr. BROWNBACK, Mr. THUNE, Mr. BENNETT of Utah, Mr. JOHANNS, Mr. DEMINT, Mr. ROBERTS, Mr. RISCH, Mr. INHOFE, Mr. BARRASSO, Mr. GREGG, Mr. ENSIGN, Mr. GRASSLEY, Mr. MARTINEZ, Mr. MCCAIN, Mr. ENZI, Mr. CRAPO, Mr. CORKER, Mr. KYL, Mr. GRAHAM, Mr. COBURN, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

On page 76, after line 23, add the following:

SEC. 116. TREATMENT OF UNBORN CHILDREN.

(a) CODIFICATION OF CURRENT REGULATIONS.—Section 2110(c)(1) (42 U.S.C. 1397jj(c)(1)) is amended by striking the period at the end and inserting the following: '', and includes, at the option of a State, an unborn child. For purposes of the previous sentence, the term 'unborn child' means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.''.

(b) CLARIFICATIONS REGARDING COVERAGE OF MOTHERS.—Section 2103 (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) CLARIFICATIONS REGARDING AUTHORITY TO PROVIDE POSTPARTUM SERVICES AND MATERNAL HEALTH CARE.—Any State that provides child health assistance to an unborn child under the option described in section 2110(c)(1) may—

''(1) continue to provide such assistance to the mother, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends; and

''(2) in the interest of the child to be born, have flexibility in defining and providing services to benefit either the mother or unborn child consistent with the health of both.''.

SA 81. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 273, line 8, strike ''inserting ''$24.78''.'' and all that follows through page 276, line 9, and insert ''inserting ''$2.8311 cents''.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, January 28, 2009, at 10 a.m., to hold a hearing entitled ''Addressing Global Climate Change: The Road to Copenhagen.''

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, January 28, 2009, at 10 a.m. to conduct a hearing entitled ''Lessons from the Mumbai Terrorist Attacks, Part II.''

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

COMMITTEE ON THE JUDICIARY

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct an executive business meeting on Wednesday, January 28, 2009, at 10 a.m. in room SH–216 of the Hart Senate Office Building.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, January 28, 2009.

The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICE, AND INTERNATIONAL SECURITY

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Wednesday, January 28, 2009, at 2:30 p.m. to conduct a hearing entitled, ''The Impact of the Economic Crisis on the U.S. Postal Service''.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, January 28, 2009 at 2:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Madam President, I ask unanimous consent that Terri Postma and Rachel Miller, members of my staff, be granted the privilege of the floor during the debate of H.R. 2, the Children's Health Insurance Program Reauthorization Act of 2009.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. TESTER. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 6, 7, 8, 10, and all nominations on the Secretary's Desk in the Air Force, Army, Marine Corps, and Navy; that the nominations be confirmed, and the motions to reconsider be laid upon the table, en bloc; that no further motions be in order, and any statements relating to the nominations be printed in the RECORD; and that the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

IN THE AIR FORCE

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., sections 12203 and 12212:

To be major general

Brigadier General Donald A. Haught
Brigadier General Thomas J. Haynes
Brigadier General Craig D. McCord
Brigadier General Robert M. Stonestreet
Brigadier General Edward W. Tonini
Brigadier General Francis A. Turley

To be brigadier general

Colonel Margaret H. Bair
Colonel James H. Bartlett
Colonel Jorge R. Cantres
Colonel Sandra L. Carlson
Colonel Stephen D. Cotter
Colonel James T. Daugherty
Colonel Gretchen S. Dunkelberger
Colonel Robert A. Hamrick
Colonel Chris R. Helstad
Colonel Cecil J. Hensel, Jr.
Colonel Frank D. Landes
Colonel Robert L. Leeker
Colonel Rickie B. Mattson
Colonel Maureen McCarthy
Colonel John E. McCoy
Colonel John W. Merritt
Colonel Thomas R. Schiess
Colonel Rodger F. Seidel
Colonel Glenn K. Thompson
Colonel Dean L. Winslow
Colonel William M. Ziegler

IN THE MARINE CORPS

The following named officers for appointment in the United States Marine Corps Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. John M. Croley
Brig. Gen. Tracy L. Garrett

IN THE ARMY

The following Army National Guard of the United States officers for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., sections 12203 and 12211:

To be major general

Brigadier General Peter M. Aylward
Brigadier General Grant L. Hayden
Brigadier General David L. Jennette, Jr.
Brigadier General Robert E. Livingston, Jr.
Brigadier General William M. Maloan
Brigadier General Randy E. Manner
Brigadier General Randall R. Marchi
Brigadier General Stuart C. Pike
Brigadier General Eddy M. Spurgin
Brigadier General Charles L. Yriarte

To be brigadier general

Colonel Dennis J. Adams
Colonel Robbie L. Asher
Colonel Christopher D. Bishop
Colonel Glenn A. Bramhall
Colonel Dominic A. Cariello
Colonel Robert C. Clouse, Jr.
Colonel Robert W. Enzenauer
Colonel Peter J. Fagan
Colonel Jack R. Fox
Colonel Wilton S. Gorske
Colonel Louis H. Guernsey, Jr.
Colonel Stephen L. Huxtable
Colonel Timothy J. Kadavy
Colonel James E. Keighley
Colonel Gerald W. Ketchum
Colonel Leonard H. Kiser
Colonel Timothy L. Lake
Colonel Gregory A. Lusk
Colonel David V. Matakas
Colonel Owen W. Monconduit
Colonel Timothy E. Orr
Colonel William R. Phillips, II
Colonel Renaldo Rivera
Colonel Kenneth C. Roberts
Colonel Stephen G. Sanders
Colonel William L. Smith

Colonel Michael A. Stone
Colonel Scott L. Thoele
Colonel Robert L. Tucker, Jr.
Colonel Charles R. Veit
Colonel Roy S. Webb
Colonel Michael T. White

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Dennis Cutler Blair, of Pennsylvania, to be Director of National Intelligence.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN2 AIR FORCE nomination of Edmund P. Zynda II, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN3 AIR FORCE nomination of Daniel C. Gibson, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN4 AIR FORCE nominations (2) beginning DONALD L. MARSHALL, and ending CHARLES E. PETERSON, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN5 AIR FORCE nominations (3) beginning PAUL J. CUSHMAN, and ending LUIS F. SAMBOLIN, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN6 AIR FORCE nominations (4) beginning CHRISTOPHER S. ALLEN, and ending DEEPA HARIPRASAD, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN7 AIR FORCE nomination of Ryan R. Pendleton, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN8 AIR FORCE nomination of Howard L. Duncan, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN9 AIR FORCE nominations (5) beginning JEFFREY R. GRUNOW, and ending PAMELA T. SCOTT, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN10 AIR FORCE nomination of Eugene M. Gaspard, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN11 AIR FORCE nominations (2) beginning MICHAEL R. POWELL, and ending VALERIE R. TAYLOR, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN12 AIR FORCE nominations (2) beginning MARY ELIZABETH BROWN, and ending GERALD J. LAURSEN, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN13 AIR FORCE nominations (3) beginning GARY R. CALIFF, and ending C. MICHAEL PADAZINSKI, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN14 AIR FORCE nominations (5) beginning STEPHEN SCOTT BAKER, and ending PHILLIP E. PARKER, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN15 AIR FORCE nominations (9) beginning JOSEPH ALLEN BANNA, and ending JOSEPH TOCK, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN16 AIR FORCE nominations (69) beginning KEITH A. ACREE, and ending STEVEN L. YOUSSI, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

IN THE ARMY

PN17 ARMY nomination of Scott A. Gronewold, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN18 ARMY nominations (2) beginning ROBERT L. KASPAR JR., and ending DAVID K. SCALES, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN19 ARMY nomination of Emmett W. Mosley, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN20 ARMY nominations (2) beginning ANDREW C. MEVERDEN, and ending APRIL M. SNYDER, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN21 ARMY nominations (6) beginning DOUGLAS M. COLDWELL, and ending STEPHEN MONTALDI, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN22 ARMY nomination of Thomas S. Carey, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN23 ARMY nomination of Scottie M. Eppler, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN24 ARMY nomination of Pierre R. Pierce, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN25 ARMY nominations (2) beginning CHERYL A. CREAMER, and ending AGA E. KIRBY, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN26 ARMY nominations (24) beginning KATHRYN A. BELILL, and ending SUZANNE R. TODD, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN27 ARMY nominations (73) beginning CHRISTOPHER ALLEN, and ending D060522, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN28 ARMY nominations (137) beginning JOHN L. AMENT, and ending WENDY G. WOODALL, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN29 ARMY nominations (143) beginning TERRYL L. AITKEN, and ending SARAHTYAH T. WILSON, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

IN THE MARINE CORPS

PN30 MARINE CORPS nomination of Matthew E. Sutton, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN31 MARINE CORPS nomination of Andrew N. Sullivan, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN32 MARINE CORPS nomination of Tracy G. Brooks, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN33 MARINE CORPS nominations (2) beginning PETER M. BARACK JR., and ending JACOB D. LEIGHTY III, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN34 MARINE CORPS nominations (2) beginning DAVID G. BOONE, and ending JAMES A. JONES, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN35 MARINE CORPS nominations (2) beginning WILLIAM A. BURWELL, and ending BALWINDAR K. RAWALAYVANDEVOORT, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN36 MARINE CORPS nominations (2) beginning KURT J. HASTINGS, and ending CALVIN W. SMITH, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN37 MARINE CORPS nominations (3) beginning JAMES P. MILLER JR., and ending MARC TARTER, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN38 MARINE CORPS nomination of David S. Pummell, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN39 MARINE CORPS nomination of Robert M. Manning, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN40 MARINE CORPS nomination of Michael A. Symes, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN41 MARINE CORPS nomination of Paul A. Shirley, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN42 MARINE CORPS nomination of Richard D. Kohler, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN43 MARINE CORPS nominations (2) beginning JULIE C. HENDRIX, and ending MAURO MORALES, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN44 MARINE CORPS nominations (4) beginning CHRISTOPHER N. NORRIS, and ending SAMUEL W. SPENCER III, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN45 MARINE CORPS nominations (3) beginning ANTHONY M. NESBIT, and ending PAUL ZACHARZUK, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN46 MARINE CORPS nominations (3) beginning GREGORY R. BIEHL, and ending BRYAN S. TEET, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN47 MARINE CORPS nominations (2) beginning TRAVIS R. AVENT, and ending GREGG R. EDWARDS, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN48 MARINE CORPS nominations (4) beginning JOSE A. FALCHE, and ending CLENNON ROE III, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN49 MARINE CORPS nominations (6) beginning KEITH D. BURGESS, and ending BRIAN J. SPOONER, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN50 MARINE CORPS nominations (3) beginning MARK L. HOBIN, and ending TERRY G. NORRIS, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN51 MARINE CORPS nominations (26) beginning KEVIN J. ANDERSON, and ending EDWARD P. WOJNAROSKI JR., which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

IN THE NAVY

PN53 NAVY nomination of Steven J. Shauberger, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN54 NAVY nomination of Karen M. Stokes, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN56 NAVY nominations (7) beginning CRAIG W. AIMONE, and ending MATTHEW

M. WILLS, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

NOMINATION OF DENNIS C. BLAIR

Mrs. FEINSTEIN. Mr. President, I rise today as chairman of the Select Committee on Intelligence to urge the Senate to confirm Admiral Dennis C. Blair to be the next Director of National Intelligence.

Admiral Blair is well known to many of us from his years of service as the Commander in Chief of the U.S. Pacific Command. He has served with distinction in the national security field all his adult life, entering the Naval Academy in 1964 and serving for 34 years.

During his naval career, Admiral Blair was involved in the intelligence field and in policymaking. He worked twice in the White House, first as a fellow and then on the National Security Council staff. He worked for 2 years at the CIA as the Associate Director for Military Support. And he was named to be the Director of the Joint Staff in 1996.

He has been a consumer and a manager of intelligence through his career, and he has a strong understanding of the importance of providing the President, the Congress, and other policymakers with accurate, actionable, and timely intelligence.

Admiral Blair will be the Nation's third Director of National Intelligence, a position that was left vacant by the resignation of ADM Mike McConnell earlier this week. It is critical that Admiral Blair be confirmed so that the intelligence community has the leadership it needs.

I hope that the Senate will confirm Admiral Blair on a strong bipartisan basis, sending the signal that we are united in our support for the nominee and in our interest in strong leadership of the intelligence community.

The position of the Director of National Intelligence was created so that there would be a single leader of the 16 intelligence agencies who could bring greater integration to the work of U.S. intelligence. The job of the Director is to break down the stovepipes and put intelligence agencies back on the right track when they go astray.

Progress has been made by the previous Directors, Ambassador Negroponte and Admiral McConnell, but they would agree much work is ahead. As Admiral Blair said to the committee, it will be his job as the DNI to see that ''the whole of the national intelligence enterprise is always more than the sum of its parts.''

Admiral Blair has pledged, however, to take forceful action when there are disagreements or when he believes an agency is not performing as it should.

He has a keen appreciation both for the many smart, dedicated and brave professionals in the intelligence community workforce and for the role of the DNI to give these professionals the right missions, and the right tools, to collect the intelligence we need and conduct professional and accurate analysis.

President-elect Obama announced his intention to nominate Admiral Blair on January 9, 2009, and then President Obama submitted the nomination to the Senate on his first afternoon in office. The Intelligence Committee carefully reviewed Admiral Blair's record and his views on the role of the Director of National Intelligence, the threats facing the United States, and the appropriate way for the intelligence community to handle its missions.

The committee held a public hearing with Admiral Blair on January 22, at which he was introduced and supported by our distinguished colleague and very first chairman of the Senate Intelligence Committee, Senator INOUYE.

Before and after the hearing, Admiral Blair answered numerous questions for the record. His answers can be found on the committee's Web site, and I commend them to all Members and the public for a better understanding of his views about the important office to which he has been nominated, and the challenges he will face on behalf of the American people.

I have been especially pleased with the commitment of Admiral Blair to address the issue of congressional oversight. In our prehearing questions, we asked Admiral Blair about his views on keeping the intelligence committees fully and currently informed of intelligence activities.

We asked him to address in particular the failure to brief the entire membership of the intelligence committees on the CIA's interrogation, detention, and rendition program, and the NSA's electronic surveillance program. His direct answer recognized a fundamental truth: ''These programs were less effective and did not have sufficient legal and constitutional foundations because the intelligence committees were prevented from carrying out their oversight responsibilities.''

Admiral Blair has pledged that he will work closely with the committee and the Congress to build a relationship of trust and candor. He has said that the leadership of the intelligence community must earn the support and trust of the intelligence oversight committees if it is to earn the trust and support of the American people. I wholeheartedly agree.

I am confident that Admiral Blair will ensure that the membership of the select committee is given access to the information it needs to perform its oversight role, and U.S. intelligence programs will have a stronger foundation because of it.

He has also agreed to come before the committee on a monthly basis to have candid discussions with all members on the major issues he sees and the challenges he faces. These sessions are enormously important for the committee to truly understand the workings of the intelligence community and to carry out our oversight responsibilities.

In addition, Admiral Blair will have a pivotal role in the implementation of the recent presidential Executive orders to close the detention center in Guantanamo and ensure there is a single standard for the humane and lawful treatment of detainees by U.S. military and intelligence services.

These executive orders represent an extraordinarily important turning point for our Nation. Admiral Blair has made strong statements to the committee that torture is not moral, legal, or effective, and that the U.S. Government must have a single clear standard for the treatment and interrogation of detainees. I am convinced he will help ensure we are once more true to our ideals and protecting our national security.

Having been an early advocate of the creation of the position, it is for me a distinct honor that my very first floor responsibility as the new chairman of the Intelligence Committee is to report this nomination.

I am pleased to relay to my colleagues that the Intelligence Committee met today, on January 28, and voted to report favorably the nomination of Admiral Blair to be the Director of National Intelligence.

The Senate has moved quickly to act on this recommendation. It is a testament to the importance of the position and the qualifications of the nominee. I thank the vice chairman for working with me to move the nomination quickly but with the due diligence appropriate for this position.

Admiral Blair has my strong support to lead the intelligence community and I look forward to working with him closely in the days to come.

Mr. ROCKEFELLER. Mr. President, I rise to congratulate Admiral Denny Blair on his unanimous confirmation as the Director of National Intelligence, one of the most important and demanding jobs in our government. This position requires a leader with tremendous management skills—someone capable of bringing the 16 disparate agencies of the intelligence community into a cohesive organization that provides timely, accurate intelligence to our government.

This intelligence is necessary to keep our Nation and our people safe, so Admiral Blair undertakes a sober, solemn responsibility today. He will take on this task at a time when we are fighting two wars as well as a global fight against terrorist networks, not to mention enormous long-term strategic challenges—including those that have arisen in recent months in the wake of the global financial and economic crisis.

These are perilous times, but I am confident he is up to the task. Admiral Blair brings a wealth of valuable experience to the job. As a senior military commander he was a high level consumer of intelligence and familiar with the systems used to collect and produce intelligence. He also knows the Central Intelligence Agency having spent time as the first Associate Director for Military Affairs.

Perhaps his greatest attribute, however, is his experience directing a large, sprawling organization, made up of disparate agencies and cultures, to achieve a common mission. That is what he accomplished successfully as the commander of all U.S. military forces in the Pacific, and that is exactly what his mission will be as the DNI.

I think this is a very promising time for our intelligence community and our national security, and Admiral Blair's confirmation is a big part of that. I want to underscore what he told us in his confirmation hearing—that we are entering a ''new era in the relationship'' between Congress and the executive branch on matters of intelligence.

Specifically, Admiral Blair said that he will place great importance on keeping Congress informed—not just formally notified, but fully informed—on intelligence activities. He said that he will work to ensure that classification is not used as a way to, in his words, ''hide things'' from Members of Congress who need to know about them.

He stated clearly and I quote, ''We need to have processes which don't just check a block on telling somebody but actually get the information across to the right people.''

These are very important commitments, and they portend good things for our intelligence community and for our national security. I have had the opportunity to speak with Admiral in great depth over the past several months, and these discussions have given me confidence in his sincerity with these commitments.

And I expect that, likewise, he and the Obama administration have confidence that Congress will hold them to it. In fact this cooperation has already begun.

With this new era of cooperation in mind, I want to state for the record that we have an opportunity to make a sharp turn toward new intelligence policies that will bolster our counterterrorism efforts and strengthen our national security in general.

To be accurate and valuable, intelligence must be politically neutral information, not spin. And it must be collected with methods that enjoy bipartisan support as both legal and effective.

To ensure this, secret intelligence activities must be subject to rigorous congressional oversight. We are the only independent reviewers of secret intelligence activities, and we are the only outside check on activities that are not legal or not effective.

Oversight should not be adversarial—it is a necessary partnership between the executive branch and the Congress.

I have fought to remove politics from intelligence and to restore Congress's vital oversight role since I joined the committee in 2001, and I will keep fighting for it now.

I don't want to get into who is at fault for the cycle we were caught in over the past several years. Instead I want to look ahead to what is possible now.

I think there is a real chance that in this new year, we can have a new start.

We can and should debate how we go about collecting and analyzing intelligence—for instance on interrogation policies—but we can do that without the stain of political considerations.

Between the executive and legislative branches, we can and should engage and debate these policies, but we can do that in partnership, with the knowledge that more information exchanges and deliberations give rise to better intelligence collection and analysis.

In short, we can recognize that we are all on the same team when it comes to finding out the sensitive information we need to protect this great Nation.

If we play on that same team, I know we can have accurate, reliable intelligence that is collected in a way that makes this country proud, and is analyzed without the taint of political influence.

I congratulate Admiral Denny Blair on his confirmation.

Mr. BOND. Mr. President, I wish to express my support for the nomination of ADM Dennis Blair to be the next Director of National Intelligence.

Over the past several weeks, Admiral Blair and I have spoken at length about the role of the DNI and the expectations that we in Congress will have of him.

First and foremost, we expect that the DNI will direct the intelligence community and not be a coordinator or consensus-seeker or govern by majority.

Second, the DNI must be a strong leader, standing on equal footing with the Secretary of Defense and other Cabinet officials.

Third, the DNI must assert appropriate authority over the CIA—it is the DNI, and the DNI alone, who should speak and act as the President's intelligence adviser.

I am pleased that Admiral Blair has pledged that he will come back to Congress to ask for any additional authorities if he determines that such authorities are needed to direct the intelligence community.

The intelligence community needs a strong leader right now. As we know, last week the President signed a number of Executive orders that not only will have a lasting impact on how we fight this war on terror but have created immediate and serious legal and practical problems in handling terrorist detainees.

Admiral Blair will play a key role in the implementation of these Executive orders.

I believe that the sooner he learns all the facts about the CIA's interrogation and detention program and the ramifications of closing Guantanamo Bay, the better he will be able to guide that process in a manner that will not jeopardize American lives.

Admiral Blair has had a long and distinguished career in Government service. He brings a lifetime of sound judgment and strong character to this difficult job.

I believe Admiral Blair is up to the task of leading the intelligence community and I would urge my colleagues to support his nomination.

NOMINATIONS DISCHARGED

Mr. TESTER. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged of PN65–15 and 65–9; the Budget and Homeland Security Committee be discharged of PN65–12; and the Banking Committee be discharged of PN64–15; and the Senate then proceed, en bloc, to the nominations; that the Senate then proceed to vote on confirmation of the nominations, en bloc.

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

The question is, Will the Senate advise and consent to the nominations of James Steinberg to be Deputy Secretary of State; Jacob Lew to be Deputy Secretary of State, Management and Resources; Robert Nabors to be Deputy Director, OMB; and Christina Romer to be a member of the Council of Economic Advisors?

The nominations were confirmed.

Mr. TESTER. I move to reconsider and table; and I ask unanimous consent that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's actions and the Senate then resume legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Jacob J. Lew, of New York, to be Deputy Secretary of State for Management and Resources.

OFFICE OF MANAGEMENT AND BUDGET

Robert L. Nabors II, of New Jersey, to be Deputy Director of the Office of Management and Budget.

COUNCIL OF ECONOMIC ADVISERS

Christina Duckworth Romer, of California, to be a Member of the Council of Economic Advisers.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE

Mr. TESTER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 26, the House adjournment resolution, which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 26) providing for an adjournment of the House.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. TESTER. I ask unanimous consent the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 26) was agreed to.

NATIONAL DATA PRIVACY DAY

Mr. TESTER. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 25, submitted earlier today by Senator DORGAN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 25) expressing support for designation of January 28, 2009, as ''National Data Privacy Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. TESTER. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 25) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 25

Whereas the Internet and the capabilities of modern technology cause data privacy issues to figure prominently in the lives of many people in the United States at work, in their interaction with government and public authorities, in the health field, in e-commerce transactions, and online generally;

Whereas many individuals are unaware of data protection and privacy laws generally and of specific steps that can be taken to help protect the privacy of personal information online;

Whereas ''National Data Privacy Day'' constitutes an international collaboration and a nationwide and statewide effort to raise awareness about data privacy and the protection of personal information on the Internet;

Whereas government officials from the United States and Europe, privacy professionals, academics, legal scholars, representatives of international businesses, and others with an interest in data privacy issues are working together on this date to further the discussion about data privacy and protection;

Whereas privacy professionals and educators are being encouraged to take the time to discuss data privacy and protection issues with teens in high schools across the country;

Whereas privacy is a central element of the mission of the Federal Trade Commission and the Commission will need to continue to educate consumers about protecting their personal information, and their consumer education campaigns should be part of a National effort;

Whereas the recognition of ''National Data Privacy Day'' will encourage more people nationwide to be aware of data privacy concerns and to take steps to protect their personal information online; and

Whereas January 28, 2009, would be an appropriate day to designate as ''National Data Privacy Day'': Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of a ''National Data Privacy Day'';

(2) encourages State and local governments to observe the day with appropriate activities that promote awareness of data privacy;

(3) encourages privacy professionals and educators to discuss data privacy and protection issues with teens in high schools across the United States; and

(4) encourages individuals across the Nation to be aware of data privacy concerns and to take steps to protect their personal information online.

ORDERS FOR THURSDAY, JANUARY 29, 2009

Mr. TESTER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow, January 29; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 2, the Children's Health Insurance Program Reauthorization Act.

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

PROGRAM

Mr. TESTER. Mr. President, tomorrow Senators should expect rollcall votes throughout the day as we continue to work through the remaining amendments to the children's health care bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. TESTER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:32 p.m., adjourned until Thursday, January 29, 2009, at 9:30 a.m.

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations by unanimous consent and the nominations were confirmed:

James Braidy Steinberg, of Texas, to be Deputy Secretary of State.

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations by unanimous consent and the nominations were confirmed:

Jacob J. Lew, of New York, to be Deputy Secretary of State for Management and Resources.

The Senate Committee on Homeland Security and Governmental Affairs was discharged from further consideration of the following nomination by unanimous consent and the nomination was confirmed:

Robert L. Nabors II, of New Jersey, to be Deputy Director of the Office of Management and Budget.

The Senate Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of the following nomination by unanimous consent and the nomination was confirmed:

Christina Duckworth Romer, of California, to be a Member of the Council of Economic Advisers.

CONFIRMATIONS

Executive nominations confirmed by the Senate Wednesday, January 28, 2009:

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

DENNIS CUTLER BLAIR, OF PENNSYLVANIA, TO BE DIRECTOR OF NATIONAL INTELLIGENCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF STATE

JACOB J. LEW, OF NEW YORK, TO BE DEPUTY SECRETARY OF STATE FOR MANAGEMENT AND RESOURCES.

JAMES BRAIDY STEINBERG, OF TEXAS, TO BE DEPUTY SECRETARY OF STATE.

EXECUTIVE OFFICE OF THE PRESIDENT

CHRISTINA DUCKWORTH ROMER, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

ROBERT L. NABORS II, OF NEW JERSEY, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be major general

BRIGADIER GENERAL DONALD A. HAUGHT
BRIGADIER GENERAL THOMAS J. HAYNES
BRIGADIER GENERAL CRAIG D. MCCORD
BRIGADIER GENERAL ROBERT M. STONESTREET
BRIGADIER GENERAL EDWARD W. TONINI
BRIGADIER GENERAL FRANCIS A. TURLEY

To be brigadier general

COLONEL MARGARET H. BAIR
COLONEL JAMES H. BARTLETT
COLONEL JORGE R. CANTRES
COLONEL SANDRA L. CARLSON
COLONEL STEPHEN D. COTTER
COLONEL JAMES T. DAUGHERTY
COLONEL GRETCHEN S. DUNKELBERGER
COLONEL ROBERT A. HAMRICK
COLONEL CHRIS R. HELSTAD
COLONEL CECIL J. HENSEL, JR.
COLONEL FRANK D. LANDES
COLONEL ROBERT L. LEEKER
COLONEL RICKIE B. MATTSON
COLONEL MAUREEN MCCARTHY
COLONEL JOHN E. MCCOY
COLONEL JOHN W. MERRITT
COLONEL THOMAS R. SCHIESS
COLONEL RODGER F. SEIDEL
COLONEL GLENN K. THOMPSON
COLONEL DEAN L. WINSLOW
COLONEL WILLIAM M. ZIEGLER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JOHN M. CROLEY
BRIG. GEN. TRACY L. GARRETT

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE

RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be major general

BRIGADIER GENERAL PETER M. AYLWARD
BRIGADIER GENERAL GRANT L. HAYDEN
BRIGADIER GENERAL DAVID L. JENNETTE, JR.
BRIGADIER GENERAL ROBERT E. LIVINGSTON, JR.
BRIGADIER GENERAL WILLIAM M. MALOAN
BRIGADIER GENERAL RANDY E. MANNER
BRIGADIER GENERAL RANDALL R. MARCHI
BRIGADIER GENERAL STUART C. PIKE
BRIGADIER GENERAL EDDY M. SPURGIN
BRIGADIER GENERAL CHARLES L. YRIARTE

To be brigadier general

COLONEL DENNIS J. ADAMS
COLONEL ROBBIE L. ASHER
COLONEL CHRISTOPHER D. BISHOP
COLONEL GLENN A. BRAMHALL
COLONEL DOMINIC A. CARIELLO
COLONEL ROBERT C. CLOUSE, JR.
COLONEL ROBERT W. ENZENAUER
COLONEL PETER J. FAGAN
COLONEL JACK R. FOX
COLONEL WILTON S. GORSKE
COLONEL LOUIS H. GUERNSEY, JR.
COLONEL STEPHEN L. HUXTABLE
COLONEL TIMOTHY J. KADAVY
COLONEL JAMES E. KEIGHLEY
COLONEL GERALD W. KETCHUM
COLONEL LEONARD H. KISER
COLONEL TIMOTHY L. LAKE
COLONEL GREGORY A. LUSK
COLONEL DAVID V. MATAKAS
COLONEL OWEN W. MONCONDUIT
COLONEL TIMOTHY E. ORR
COLONEL WILLIAM R. PHILLIPS II
COLONEL RENALDO RIVERA
COLONEL KENNETH C. ROBERTS
COLONEL STEPHEN G. SANDERS
COLONEL WILLIAM L. SMITH
COLONEL MICHAEL A. STONE
COLONEL SCOTT L. THOELE
COLONEL ROBERT L. TUCKER, JR.
COLONEL CHARLES R. VEIT
COLONEL ROY S. WEBB
COLONEL MICHAEL T. WHITE

IN THE AIR FORCE

AIR FORCE NOMINATION OF EDMUND P. ZYNDA II, TO BE MAJOR.

AIR FORCE NOMINATION OF DANIEL C. GIBSON, TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH DONALD L. MARSHALL AND ENDING WITH CHARLES E. PETERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH PAUL J. CUSHMAN AND ENDING WITH LUIS F. SAMBOLIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH CHRISTOPHER S. ALLEN AND ENDING WITH DEEPA HARIPRASAD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATION OF RYAN R. PENDLETON, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATION OF HOWARD L. DUNCAN, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH JEFFREY R. GRUNOW AND ENDING WITH PAMELA T. SCOTT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATION OF EUGENE M. GASPARD, TO BE COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH MICHAEL R. POWELL AND ENDING WITH VALERIE R. TAYLOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH MARY ELIZABETH BROWN AND ENDING WITH GERALD J. LAURSEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH GARY R. CALIFF AND ENDING WITH C. MICHAEL PADAZINSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH STEPHEN SCOTT BAKER AND ENDING WITH PHILLIP E. PARKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH JOSEPH ALLEN BANNA AND ENDING WITH JOSEPH TOCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH KEITH A. ACREE AND ENDING WITH STEVEN L. YOUSSI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

IN THE ARMY

ARMY NOMINATION OF SCOTT A. GRONEWOLD, TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH ROBERT L. KASPAR, JR. AND ENDING WITH DAVID K. SCALES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATION OF EMMETT W. MOSLEY, TO BE COLONEL.

ARMY NOMINATIONS BEGINNING WITH ANDREW C. MEVERDEN AND ENDING WITH APRIL M. SNYDER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATIONS BEGINNING WITH DOUGLAS M. COLDWELL AND ENDING WITH STEPHEN MONTALDI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATION OF THOMAS S. CAREY, TO BE MAJOR.

ARMY NOMINATION OF SCOTTIE M. EPPLER, TO BE MAJOR.

ARMY NOMINATION OF PIERRE R. PIERCE, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH CHERYL A. CREAMER AND ENDING WITH AGA E. KIRBY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATIONS BEGINNING WITH KATHRYN A. BELILL AND ENDING WITH SUZANNE R. TODD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATIONS BEGINNING WITH CHRISTOPHER ALLEN AND ENDING WITH D060522, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATIONS BEGINNING WITH JOHN L. AMENT AND ENDING WITH WENDY G. WOODALL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

ARMY NOMINATIONS BEGINNING WITH TERRYL L. AITKEN AND ENDING WITH SARAHTYAH T. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF MATTHEW E. SUTTON, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATION OF ANDREW N. SULLIVAN, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATION OF TRACY G. BROOKS, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATIONS BEGINNING WITH PETER M. BARACK, JR. AND ENDING WITH JACOB D. LEIGHTY III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH DAVID G. BOONE AND ENDING WITH JAMES A. JONES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH WILLIAM A. BURWELL AND ENDING WITH BALWINDAR K. RAWALAYVANDEVOORT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH KURT J. HASTINGS AND ENDING WITH CALVIN W. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH JAMES P. MILLER, JR. AND ENDING WITH MARC TARTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATION OF DAVID S. PUMMELL, TO BE MAJOR.

MARINE CORPS NOMINATION OF ROBERT M. MANNING, TO BE MAJOR.

MARINE CORPS NOMINATION OF MICHAEL A. SYMES, TO BE MAJOR.

MARINE CORPS NOMINATION OF PAUL A. SHIRLEY, TO BE MAJOR.

MARINE CORPS NOMINATION OF RICHARD D. KOHLER, TO BE MAJOR.

MARINE CORPS NOMINATIONS BEGINNING WITH JULIE C. HENDRIX AND ENDING WITH MAURO MORALES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH CHRISTOPHER N. NORRIS AND ENDING WITH SAMUEL W. SPENCER III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH ANTHONY M. NESBIT AND ENDING WITH PAUL ZACHARZUK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH GREGORY R. BIEHL AND ENDING WITH BRYAN S. TEET, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH TRAVIS R. AVENT AND ENDING WITH GREGG R. EDWARDS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH JOSE A. FALCHE AND ENDING WITH CLENNON ROE III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH KEITH D. BURGESS AND ENDING WITH BRIAN J. SPOONER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH MARK L. HOBIN AND ENDING WITH TERRY G. NORRIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

MARINE CORPS NOMINATIONS BEGINNING WITH KEVIN J. ANDERSON AND ENDING WITH EDWARD P. WOJNAROSKI, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.

IN THE NAVY

NAVY NOMINATION OF STEVEN J. SHAUBERGER, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATION OF KAREN M. STOKES, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATIONS BEGINNING WITH CRAIG W. AIMONE AND ENDING WITH MATTHEW M. WILLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.