the doctors, hospitals, home health care, hospice care, these folks. They reduce payments so that the providers have no choice but to reduce the amount of their care.

They have to see more patients, there are not as many of them, and they are getting paid less. So naturally they cannot provide the same level and quality of care. That is how rationing begins. Ask people in Canada, ask people in Great Britain how long it takes to get in to see the doctor. Eventually even that does not cut it. So they set a budget and say: We cannot afford to pay any more than that.

You better hope you get sick early in the year. That is, unfortunately, what you can see to an extent in our veterans care but even more in our care for our Native Americans. I did not make this up. Others have said in the Indian Health Care Service, get sick early in the year because they run out of money if you get sick late in the year.

Our first obligation ought to be to ensure our Native American population receives the care we have promised them. I personally have gone throughout Indian reservations in Arizona. We have more than any other State. I made a tour of the Navajo reservations, including a lot of the health care clinics and facilities that try to take care of folks under the Indian Health Service. None has enough money to do what they are supposed to. They are understaffed. The people who are there are wonderful, dedicated health care providers. They are doing their best. But you ask any of the Native Americans whether they believe they are getting the care they are supposed to get under the program, and the answer is uniformly no. They have to wait forever. The care is not there when they need it.

This is the perfect example of rationing of care, what happens when you have a government-run system. That is what I fear most of all will result from this because we have taken on much more than we can afford.

The end result of that inevitably is the reduction in the amount of care that is provided and the quality of care that is provided.

I urge my colleagues to think very carefully about what we are getting our constituents into. We can start to turn this back by supporting the Crapo motion which at least says that folks who are middle-class families, who the President promised would not see a tax increase, will not see a tax increase under the legislation. That is what the Crapo motion would provide, and I certainly hope my colleagues support it.

RECESS

Mr. KYL. Mr. President, if there are no other Senators seeking recognition at this time, I ask that the Senate stand in recess under the previous order.

Thereupon, the Senate, at 12:45 p.m., recessed until 3:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. CRAPO).

SERVICE MEMBERS HOME OWNERSHIP TAX ACT OF 2009—Resumed

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I rise to strongly support and urge all of my colleagues, Republicans and Democrats, to support the upcoming Dorgan reimportation amendment which we will be voting on later today and, just as important, to oppose the Lautenberg amendment which, as everyone knows, is a poison pill to reimportation and is simply and surely a way to absolutely kill for all practical purposes the real Dorgan reimportation language.

To me, this is a crystal-clear choice, and it is the sort of choice the American people are really interested in and really watching. It is a choice between doing something that can make a difference in people's lives, something that can help people, that can solve a real problem in health care by doing something in a focused way or we can choose to keep to the big political deal that was made inside the beltway, inside the White House with the pharmaceutical industry. That is the choice. This is really a choice between voting for the American people or voting for politics as usual in Washington. That is what it all comes down to.

On the positive side, reimportation is a very real and very effective solution to a real problem. The problem is obvious. The problem is sky-high prescription drug prices—the highest in the world—that we as Americans pay. These same drugs are sold around the world, and in many different cases—in virtually every case—we pay the highest prices in the world right here in the United States even though we have the biggest marketplace for prescription drugs. That is the system we are trying to break up. So I want and supporters of this amendment want a true free market in prescription drugs, a world price that will lower the U.S. price and dramatically help U.S. consumers.

It is not just supporters of this amendment and this concept who are making these arguments; it is unbiased sources such as the Congressional Budget Office and others. The Congressional Budget Office says this amendment—this reimportation concept will save the Federal Government money, significant money, some $18 billion or more. And besides the savings to the Federal Government, the savings to the U.S. consumer are much greater—$80 billion or more.

So that is the positive choice—doing something real about a real problem. That is what the American people want us to do. They want us to focus on the real problems that exist in health care and attack those real problems in a focused way.

The other alternative is to keep the political deal, to vote yes for politics as usual in Washington. Tragically, that is what is represented by the political deal that was struck on this global health care bill between the White House and the White House's allies here in the Senate and the big pharmaceutical industry. It has been widely reported—it is no secret—that there was a deal between these bodies. The pharmaceutical industry agreed to support the President's initiative, putting as much as $150 million of TV advertising cash behind that support, if the White House would completely change its position on reimportation and other key points.

The record is clear: When President Obama served right here with us in the U.S. Senate, he was completely for reimportation. As a Presidential candidate, he campaigned vigorously for reimportation. Rahm Emanuel, the White House Chief of Staff, when he served in the U.S. House, was strongly for reimportation. But now, all that is off because Washington politics as usual has stepped in the way. They have reversed their position through this deal with PhRMA. Tragically, that has crept into the Senate Chamber as well. Key Senators on the Democratic side—MAX BAUCUS and JAY ROCKEFELLER and others—have reversed their position and apparently now are urging ''no'' votes for a policy they have long supported.

Well, we will know in a few hours who will be the winner—the American people, being given lower prescription prices, or PhRMA and politics as usual in Washington. Make no mistake about it, that is the choice. It couldn't be laid out in a clearer way. And to choose for the American people, to make real progress for lower prescription drug prices, we need to do not one but two things: first, to pass the Dorgan amendment, and second, and just as important, to defeat the Lautenberg amendment side-by-side, which would clearly, by all acknowledged sources, be a poison pill to reimportation—an easy way for the administration to ensure reimportation never happens.

I urge all of my colleagues, Democrats and Republicans, to vote for lower prescription drug prices, to vote for the American people, and certainly to vote against Washington politics as usual, which the American people are so completely disgusted and fed up with. I urge that vote. Americans all around the country, in all our home States, will remember it and will thank us for it because we will actually be providing a real solution to a real problem and bringing them significantly lower prescription drug prices.

With that, Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

Mr. CRAPO. Mr. President, I believe I have 20 minutes remaining; is that correct?

The PRESIDING OFFICER. The Senator from Idaho has 17½ minutes remaining.

Mr. CRAPO. Mr. President, I ask that the Chair notify me when I have 2 minutes remaining.

The PRESIDING OFFICER. The Chair will so notify.

Mr. CRAPO. Later today, Mr. President, we are going to vote on my motion to refer the bill to the Finance Committee and have the Finance Committee simply make the bill comply with the President's promise with regard to taxes.

As I have said a number of times on the floor, this bill does not correct so many of the problems we need to deal with in health care. It drives the cost of health care in premiums up, not down; it raises hundreds of billions in taxes; it cuts Medicare by hundreds of billions of dollars; it grows the Federal Government by over $2.5 trillion in the first 10 years of full implementation; it forces the needy uninsured into a failing Medicaid system and does not give them access to insurance; it imposes damaging unfunded mandates on our struggling States; it still leaves millions of Americans uninsured; and it establishes massive government control over our health care. Frankly, even if the so-called government option or government health care insurance company that is created by the bill were to be removed, there would still be massive government intrusion into the control and management of our health care system.

Well, as we were facing the prospect of dealing with this bill, the President made a pledge to the American people, and in his terms the pledge was:

> I can make a firm pledge, no family making less than $250,000 will see their taxes increase; not your income taxes, not your payroll taxes, not your capital gains taxes, not any of your taxes. You will not see any of your taxes increased one single dime.

Yet what we have in this legislation is a whole array of new taxes—about $493 billion in new taxes to start with. And that is assuming you just start with the beginning of the bill and go for the first 10 years. If you actually compare the number of taxes that will be charged by this bill to the American people with that first full 10-year implementation period, that is $1.28 trillion in new taxes.

This chart shows taxes and fees, not just the specific taxes but taxes and fees—fees which our Congressional Budget Office and our Joint Tax Committee have said repeatedly will be passed on to the American consumer. Yet the President said nobody's taxes will be increased.

Let's see the next chart. Here we have further analysis of just four of the major tax provisions in the bill. There are many more, but if you look at the four major tax provisions in the bill, the Joint Committee on Taxation has said that by 2019 at least 73 million American households earning below $200,000 will face a tax increase, and when you break these numbers down further, it is not just the people making between $100,000 and $200,000, or the upper income earners, but massive tax increases falling upon people who are making well under $100,000 a year.

The response has been: Wait a minute, this bill also has some tax cuts in it, and when you offset the tax cuts against the tax increases, there are more tax cuts than there are tax increases.

I dispute that in a couple ways. First of all, even if you accept as fact that there are tax cuts in this bill, which is arguable and I will point that out in a minute, they do not offset all the taxes and fees, so it is still a net increase in taxes. But there is a subsidy in this bill to provide insurance to a group of Americans who do not have the financial capacity today to purchase their own insurance. As I mentioned earlier, the most needy of this group did not get access to insurance. They got put on Medicaid. But some in America will get some access to insurance and that subsidy will be provided by the Federal Government. The other side is saying that is a tax cut.

I disagree with that for a couple reasons. First of all, it is called, in the bill, a refundable tax credit and it is administered by the Internal Revenue Service—which, by the way, is going to need to grow by 40 to 50 percent in order to accommodate these new roles in managing the health care system. But it is a refundable tax credit in only the way Congress could put it together. It is nothing other than a government payment to individuals, most of whom pay no taxes. In fact, between 2014 and 2019, 73 percent of the people receiving the subsidy, or $288 billion of the subsidy, goes to taxpayers who pay no taxes. You can call that a tax cut if you want, but CBO, our Congressional Budget Office, does not call it a tax cut. The Congressional Budget Office scores it as Federal spending, as exactly what it is, spending by the Federal Government. It is a subsidy being provided by the Federal Government. You can argue about whether it should be provided, but to call it a tax cut is a stretch.

Even if you accept that is a tax cut, there are still 42 million American households earning below $200,000 per year who will pay more taxes. No matter how you cut it and no matter how you define tax cut, the reality is this bill imposes hundreds and hundreds of billions of dollars of new taxes squarely on the middle class in violation of the President's promise that nobody in America who makes less than $250,000 as a family or $200,000 as an individual, in order to fund this bill, would be required to pay more taxes.

Some of those who have responded to this have said this is our opportunity and, if we support this amendment, we will be killing a bill that provides tax relief to the American people. As I have pointed out, the amendment does not do anything to the subsidy that is called a tax cut. The amendment leaves the subsidy in place. So it is simply wrong to say the motion I have asked to have passed would do anything to remove this so-called tax relief—or properly called subsidy—from the bill. What my motion does is simply to say the bill should be referred to the Finance Committee so the Finance Committee can make sure it complies with the President's pledge that it does not raise taxes on those who are in what the President has described as the middle class. It is very simple and straightforward. If there are no such taxes, then the motion is irrelevant. But we all know there are—Joint Tax, Congressional Budget Office, many private organizations have squarely pointed it out. In fact, we are still studying it. If we get past the first four big taxes in the bill, these numbers I have talked about, the 42 million net or the 73 million in reality, in America—and those are households, not individuals, who will be paying more taxes—are squarely going to be hit by this bill.

Let me give a different perspective on it. If you take all those who are supposedly getting tax relief but are really getting a direct subsidy, accept the fact that this is truly a tax cut, they represent 7 percent of the American public. The rest of the American public does not get a subsidy. The rest of the American public pays the taxes for the establishment of a huge $2.5 trillion new entitlement program that will bring that much more of the Federal Government into control of the health care economy.

We are coming back now from a 2½-hour break because the Democrats were at the White House meeting with the President. We do not know what was said there. There was apparently a negotiation behind closed doors, yet once again, of some other new changes in the legislation, some other new portions of the bill. No C–SPAN cameras were there, to my knowledge. But we now have an opportunity to talk in the next few hours about what will happen with regard to this amendment.

The President could have asked his friends in the Democratic caucus to support this amendment, which simply requires that the bill comply with his pledge. I hope he did. I hope it can be accepted. But the reality is, this legislation violates not only this pledge but a number of the President's other pledges—for example, the pledge that if you like what you have, you can keep it. Americans all over this country have heard that pledge repeated a number of times. If you are one of the employees who has employer-provided insurance and that insurance happens to fit in the so-called higher insurance packages that are taxed 45 percent by this plan, you are not going to get to keep it. Both CBO and Joint Tax have

made it very clear that you are going to see your health care cut by your employer in order to avoid this tax. Then what is going to happen is your employer might—probably will—give you a little bit more wages to compensate for the cut in your employment benefits. Your net package of compensation will not change in value, but you will get at more of it in wages and a little less in health care. But the kicker is, the wage portion is taxed but the health portion is not so your taxes are going to go up and your net package is going to go down. You are going to have a less-robust health care plan and you will have a lower overall compensation package. Does that comply with the President's promise that if you like what you have, you can keep it? What about the 11 million Americans, I believe it is, who have Medicare Advantage policies today who clearly are going to lose about half of that extra Medicare Advantage benefit under the Medicare cuts in the bill? If they like what they have, can they keep it? No.

What I am asking is simply that the Senate vote to require that the President's pledge in this one case be honored; namely, let's send the bill to the Finance Committee, it can be turned around in the Finance Committee overnight, take out the provisions that impose taxes on people in America earning less than $250,000 as a family or $200,000 as an individual and bring it back to the floor.

You will hear it said this is a killer amendment, that it will kill the bill. It will not kill the bill unless it is necessary in the bill to tax Americans to the tune of the hundreds of billions of dollars that are included in this bill. What it will do is expose that this bill cannot be claimed to be deficit neutral or to even reduce the deficit unless three things happen: the Medicare cuts of hundreds of billions of dollars are imposed; the tax increases of hundreds of billions of dollars are imposed, and the budget gimmicks are implemented.

Let me tell you about the most significant of those budget gimmicks. In order to make it so they could say this bill does not increase taxes or does not increase the deficit, the crafters of the bill have had the taxes go into effect on day one, the Medicare cuts go into effect by day one, but the subsidy program or the spending part of the bill is delayed for 4 years. So we have 10 years of revenue and 6 years of spending.

I, personally, think the way they picked 2014 to be the year in which they implement the spending part of the bill is they said: How many years do we have to delay the spending impact until we can claim there is a deficit-neutral bill? It turned out they had to delay it for 4 years out of the 10. If it took 5, they would have delayed it 5 years. That is a budget gimmick. The reality is we all know if you have the spending go into place on day one and the taxes go into place on day one and the Medicare cuts go into place on day one and took the gimmicks out, this bill would generate a deficit, another promise the President pledged not to do.

There are so many problems with this bill. But most important today, as we will have an opportunity around 6 o'clock, is to vote to at least have the bill comply with the President's pledge.

I ask how much time remains.

The PRESIDING OFFICER. The Senator from Idaho has 3 minutes remaining.

Mr. CRAPO. Mr. President, I would like to reserve the remainder of my time, and I will hold that until later in the day.

The PRESIDING OFFICER. Who yields time? The Senator from Washington.

Ms. CANTWELL. Mr. President, I ask unanimous consent for 3 minutes out of Senator BAUCUS's time to make a statement.

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

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

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I wish to make a point. I know my colleague from Arizona wishes to engage in a brief colloquy on this point. The amendment we are offering, a bipartisan amendment dealing with the price of prescription drugs, is a very important amendment. We are going to get our vote on that, but then there is also going to be a vote on a poison pill amendment that nullifies it. It says if you pass the second amendment, it means nothing happens and prescription drug prices keep going through the roof.

I wish to say quickly there have been very few bipartisan amendments on the floor of the Senate during this health care debate. That is regrettable. This, in fact, is bipartisan. A wide range of 30 Senators, including Republicans JOHN MCCAIN, CHUCK GRASSLEY and OLYMPIA SNOWE and so on support this effort and the effort is simple, trying to put the brakes on prescription drug prices by giving the American people freedom and the ability to find competition among drug prices where they are sold in other parts of the world for a fraction of what we are charged as American consumers.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. I ask for unanimous consent to engage in a colloquy with the Senator from North Dakota.

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

Mr. MCCAIN. I think it is important for us to recognize what the Dorgan amendment is all about. It is about an estimated—according to the Congressional Budget Office, and we love to quote the Congressional Budget Office around here—$100 billion or more in consumer savings. That is what the Dorgan amendment does.

It cuts the cost of the legislation before us as much as $19.4 billion over 10 years. We are always talking about bending the cost curve, saving money, particularly for seniors who use more prescription drugs than younger Americans, and yet there is opposition.

I would like to ask my colleague from North Dakota, one, how long has he been fighting this issue; and, two, why in the world do we think anybody would be opposed to an amendment that would save $100 billion for consumers?

Mr. DORGAN. We have been working on this for 10 years—myself, the Senator from Arizona, and others. He knows because he was chairman of the Commerce Committee. We held hearings on this in the committee. The fact is, we have gotten votes on it before. In each case, the pharmaceutical industry, which has a lot of muscle around here, prevailed on those votes with an amendment that is a poison pill amendment saying somebody has to certify with respect to no additional safety risk and so on.

These safety issues are completely bogus, absolutely bogus. They have done in Europe for 20 years what we are proposing to do in this country, parallel trading between countries. What we are trying to do is save the American people $100 billion in the next 10 years because we are charged the highest prices in the world for prescription drugs, and there is no justification for it.

I want to show the Senator from Arizona one chart. This is representative. If you happen to take Nexium, for the same quantity you pay $424 in the United States, if you were in Spain, you would pay $36; France, $67; Great Britain, $41; Germany, $37. Why is it the American consumer has the privilege of paying 10 times the cost for exactly the same drug put in the same bottle made by the same company in the same plant? Justify that.

Mr. MCCAIN. Could I also ask my friend, has he seen this chart? This chart shows that the pharmaceutical companies in America increased wholesale drug costs, which doesn't reflect the retail drug cost, by some 8.7 percent just this year, while the Consumer Price Index—this little line here, inflation—has been minus 1.3 percent.

How in the world do you justify doing that? These are lists of the increases over a year in the cost of some of the most popular or much needed prescription drugs. Why would pharmaceutical companies raise costs by some 9 percent unless they were anticipating some kind of deal they went into?

I don't want to embarrass the Senator from North Dakota, but isn't it true that the President, as a Member of this body, cosponsored this amendment?

Mr. DORGAN. That is the case. The President was a cosponsor of this legislation when he served last year. I do

want to say as well the American consumer gets to pay 10 times the cost for Nexium. Nexium is for acid reflux, probably a condition that will exist with some after this vote because my understanding is, after 7 days on the floor of the Senate, there is now an arrangement by which the pharmaceutical industry will probably have sufficient votes to beat us, once again, which means the American people lose.

I also want to make this point. Anyone who stands up and cites safety and reads the stuff that has come out of a copying machine for 10 years, understand this: Dr. Peter Rost, former vice president of marketing for Pfizer, formerly worked in Europe on the parallel trading system, said:

> The biggest argument against reimportation is safety. What everyone has conveniently forgotten to tell you is that in Europe reimportation of drugs has been in place for 20 years.

It is an insult to the American people to say: You can make this work in Europe for the benefit of consumers to get lower prices, but Americans don't have the capability to make this happen, don't have the capability to manage it. That is absurd. This safety issue is unbelievably bogus.

Mr. MCCAIN. Haven't we seen this movie before? The movie I am talking about is that we have an amendment or legislation pending before the body or in committee that will allow for drug reimportation, as the Senator pointed out from that previous chart, in a totally safe manner. Then there is always, thanks to the pharmaceutical lobbyists—of which there are, I believe, 635 pharmaceutical industry lobbyists, a lobbyist and a half for every Member of Congress—an amendment that then basically prohibits the reimportation of drugs.

Haven't we seen this movie before? Apparently another deal was made so that they are now going to have sufficient votes to again cost the consumers $100 billion more in cost for the pharmaceutical drugs. Their representatives are here on the Senate floor ready to tout the virtues of an amendment which, as we all know, is a killer amendment. Let's have no doubt about that.

Mr. DORGAN. Mr. President, the Senator from Arizona is right. If this is ''Groundhog Day'' for pharmaceutical drugs, the clock strikes 6 and the pharmaceutical industry wins. They have been doing it for 10 years. We just repeat the day over and over again. My hope is that we will not have to repeat it today. My hope is that after a lot of work on a bipartisan piece of legislation, the American people will have sufficient support on the floor of the Senate to say it is not fair for us to be paying double, triple and 10 times the cost of prescription drugs that others in the world are paying.

I wonder if we might be able to yield some time to the Senator from Iowa, 5 minutes, unless the Senator from Arizona wishes to conclude.

Mr. MCCAIN. My only conclusion is that what we are seeing is really what contributes to the enormous cynicism on the part of the American people about the way we do business. This is a pretty clear-cut issue. As the Senator from North Dakota pointed out, it has been around for 10 years. For 10 years we have been trying to ensure the consumers of America would be able to get lifesaving prescription drugs at a lower cost. And the power of the special interests, the power of the lobbyists, the power of campaign contributions is now being manifest in the passage of a killer amendment which will then prohibit—there is no objective observer who will attest to any other fact than the passage of the follow-on amendment, the side-by-side amendment, will prohibit the reimportation of prescription drugs into this country which we all know can be done in a safe fashion and could save Americans who are hurting so badly $100 billion a year or more and cut the cost of the legislation before us by $19.4 billion. To scare people, to say that these drugs that are being reimported are not done in a safe manner to ensure that the American people's health is not endangered is, of course, an old saw and an old movie we have seen before. It is regrettable that the special interests again prevail at the power of the pharmaceutical lobby.

Of the many traits the Senator from North Dakota has that I admire, one of them is tenacity. I want to assure him that I will be by his side as we go back again and again on this issue until justice and fairness is done and we defeat the special interests of the pharmaceutical industry which have taken over the White House and will take over this vote that will go at 6 o'clock. It is not one of the most admirable chapters in the history of the Senate or the United States Government.

Mr. DORGAN. Mr. President, I yield 5 minutes to the Senator from Iowa.

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

Mr. GRASSLEY. Mr. President, we have two key votes this afternoon on drug reimportation. These votes mean that today is the day we can show the American people whether we can pass drug importation or whether the Senate will give it lipservice and nothing else.

We have heard on the Senate floor the concerns that some have about drug importation and whether it can be safe. Everyone who knows me knows I care deeply about drug safety. The fact is, an unsafe situation is what we have today. Today consumers are ordering drugs over the Internet from who knows where, and the FDA does not have the resources, in fact, to do much of anything about it. The fact is, legislation to legalize importation would not only help to lower the cost of prescription drugs for all Americans but also should shut down the unregulated importation of drugs from foreign pharmacies, the situation we have today. The Dorgan amendment, in fact, would improve drug safety, not threaten it. It would open trade to lower cost drugs.

In 2004, my staff was briefed about an investigation that the Permanent Subcommittee on Investigations of the Senate Governmental Affairs Committee conducted. That subcommittee conducted this investigation into what we would call going on right now, current drug importation. They found about 40,000 parcels containing prescription drugs come through the JFK mail facility every single day of the year, 40,000 packages each day.

Now the JFK airport houses the largest international mail branch in the United States, but even then that is the tip of the iceberg. According to this subcommittee, each day 30,000 packages of drugs enter the U.S. through Miami, 20,000 enter through Chicago. That is another 50,000 more packages each and every day.

What is worse, about 28 percent of the drugs coming in are controlled substances. So we have a situation where we need the basic approach in this amendment to assure that imported drugs are safe. That is what the Dorgan amendment is all about, to give FDA the ability to verify the drug pedigree back to the manufacturer, to require FDA to inspect frequently, and to require fees to give the FDA the resources to do that.

The bottom line is, the Dorgan amendment gives the FDA the authority and the resources it needs to implement drug importation safely.

Certainly, the President knows that a great way to hold drug companies accountable is to allow safe, legal drug importation. I would like to quote this President not when he was a candidate for President but a candidate for the Senate. This is what President Obama said then:

> I urge my opponent to stop siding with the drug manufacturers and put aside his opposition to the reimportation of lower priced prescription drugs.

Now we are hearing about the secret deal with big PhRMA. That was revised just this week to solidify support with PhRMA's allies for killing this very important Dorgan amendment. The drug companies will stop at nothing to keep the United States closed to other markets in order to charge higher prices.

With the Dorgan amendment, we are working to get the job done. What we need is to make sure Americans have even greater, more affordable access to wonder drugs by further opening the doors to competition in the global pharmaceutical industry.

Americans are waiting. Too often this thing has been stymied, and it looks like there is another chance to stymie it. Only I am surprised. Most of the time in the past that I have been for the importation of drugs, it was my colleagues over here who were trying to stymie it. But now it looks as though it is the other side. We ought to

have a vast majority for this amendment. I would be surprised. It would be a crime, if we didn't.

I yield the floor.

Mr. ROBERTS. Mr. President, I rise today to talk about prescription drug importation and patient safety. Senator DORGAN's amendment to allow for the importation of prescription drugs into the United States could have grave consequences for patient safety in America.

In a recent letter to my good friend and home State colleague Senator BROWNBACK, the Commissioner of the Food and Drug Administration, Dr. Margaret Hamburg, identified the four risks to patient safety that drug importation schemes pose: No. 1, the drug may not be safe or effective; No. 2, the drug may not be a consistently made, high quality product; No. 3, the drug may not be substitutable with an FDA-approved product; and No. 4, the drug may be contaminated or counterfeit.

That is a lot of risk to expose already-vulnerable patients to. And think about this: Malta. Cyprus. Latvia. Estonia. Slovakia. Greece. Hungary. Romania. These are just a few of the countries that could be exporting prescription drugs to the United States if the Dorgan amendment passes. As a former chairman of the Senate Intelligence Committee, I have grave concerns about the ability of these countries to adequately protect their drug supplies.

Our Food and Drug Administration, the FDA, is the gold standard for drug and product safety in the world, and even it has not been one hundred percent effective in preventing contaminated and counterfeit products from entering our supply chain. The recent scandals involving imported heparin, infant formula, and toothpaste have demonstrated the unfortunate limitations of the FDA's ability to conduct foreign inspections of food, drugs and cosmetics manufacturers abroad. If our own safety watchdog can't guarantee our protection, how can we expect that protection from Malta or Slovakia?

There is a real risk that these countries will be vulnerable to importing drugs from countries that are known for high rates of counterfeiting. In the European Union last year, 34 million counterfeit drugs were seized at border crossings in just 2 months. The World Health Organization estimates that drug counterfeiting rates in Africa and parts of Asia and Latin America are 30 percent or more. And up to 50 percent of medicines purchased from Internet sites that conceal their address are found to be counterfeit. Do we really want an HIV or cancer patient in Ohio, or Arizona or Kansas to rely on imported medicines that may have zero effectiveness, or which may even be harmful?

According to FDA Commissioner Hamburg, the Dorgan amendment does not adequately address these potential risks. In fact, the Commissioner says that the amendment ''would be logistically challenging to implement and resource intensive'' and that ''significant safety concerns . . . and safety issues'' remain.

Senator LAUTENBERG has introduced a side-by-side amendment to Senator DORGAN's, requiring that, before any law allowing the importation of prescription drugs into the United States can become effective, the Secretary of Health and Human Services must certify that such a scheme will both pose no additional risk to the public's health and safety, AND result in a significant reduction in costs for consumers.

I think that this amendment just makes sense. We must protect the prescription drug supply in America.

Mr. LEAHY. Mr. President, making medicine affordable is part of what health reform should be. Today we have the opportunity to include a measure long-championed by Senator DORGAN, which makes affordable prescription drugs more widely available to Americans.

Americans pay some of the highest prices for prescription drugs of any country in the world despite the fact that many of these drugs are made right here, and they are often made with the benefit of taxpayer supported research. Prescription drugs are a lifeline, not a luxury. The issue boils down to access: A prescription drug is neither safe nor effective if you cannot afford to buy it.

We have to recognize that this imposes real dangers on American consumers when they cannot follow their doctor's treatment plan because they can't afford their medicine. While we must do more to bring affordable healthcare to the millions of Americans who are currently uninsured or who do not have good coverage, we cannot continue to deny them this immediate market-based solution.

I am proud to be a cosponsor of the Dorgan-Snowe amendment to allow pharmacies and drug wholesalers in the United States to import the very same medications that are FDA-approved in the United States from Canada, Europe, Australia, New Zealand, and Japan where prices are 35–55 percent lower than in the United States. Consumers will be able to purchase the very same prescription medications from their local pharmacies at a third or half of the cost. Additionally, the legislation would also allow individuals to purchase prescription drugs from FDA-inspected Canadian pharmacies—something Vermonters have crossed the border to do many times before.

For many Vermonters today, purchasing drugs from Canada literally means the difference between following their doctors' orders and having to throw the dice with their health and sometimes even with their lives by doing without their prescription medicines. It makes the difference for the woman who has maxed out her health plan's annual prescription drug benefit only three months into the year and is then faced with purchasing the other nine months worth of medicine at U.S. prices on her own. It makes the difference for the elderly man on a fixed income who is unable to afford both the heart medicine he needs to live, and the gas bill he needs to keep warm. Are we prepared to tell those in dire need that they must go back to choosing between paying gas, food, and heating bills, or their medicine?

Of course not, and I urge my fellow Senators to support the Dorgan-Snowe amendment.

Mr. ENZI. Mr. President, I rise today to talk about prescription drug importation. As my colleagues know, I oppose this proposal.

It is our job as Senators to debate the issues, put forward our ideas, and show where we stand. I was disappointed that Democratic leadership chose to prevent the Senate from voting on amendments to improve this bill for the past 6 days. I am, however, glad the impasse has finally been resolved.

I am not afraid to show where I stand on this issue. Some of my colleagues on both sides of the aisle support importation. Some, like me, oppose it. But my position is clear, and does not change with the political winds.

The winds I am referring to include the arrangement that was reportedly negotiated with the drug manufacturers. Under the terms of this backroom deal, the drug manufacturers have reportedly agreed to $80 billion in price cuts and provided a commitment to spend $150 million in ads supporting the Reid bill.

In exchange, Senate Democratic leadership and President Obama have reportedly agreed to block efforts to enact drug importation from Canada.

According to one Wall Street analyst's report, the Reid bill is expected to increase drug company profits by more than $137 billion over the next 4 years. Let's do the math on that: $80 billion in cuts, leading to $137 billion in increased profits.

While this may be a good deal from the drug manufacturers and Senate Democrats, it certainly is not a good deal for the American people. Part of the reported deal will actually increase Medicare costs to the taxpayer, because it creates an incentive for Medicare beneficiaries to continue using brand-name drugs.

According to the Congressional Budget Office, Federal Medicare costs will be increased by $15 billion over the next decade as a result of this deal. In the last few days, there have been new press reports highlighting how the drug manufacturers may have agreed to provide even deeper discounts on their brand-name drugs. No one knows how much more this deal will cost the taxpayers.

In addition to increasing the price Americans will pay for the Reid bill, this deal appears to have also undermined Democratic support for a drug importation amendment.

My colleagues who believe importation is the right way to lower drug

costs say that it will save the government $19 billion and consumers $80 billion over the next 10 years.

The majority leader has previously voted for drug importation. President Obama supported drug importation when he was in the Senate. The supporters of drug importation should be able to easily pass this amendment without any limitations.

Yet it looks like the supporters of drug importation will not succeed today. It appears likely that safety certification language, similar to language included in prior years, will be added to this proposal.

My colleagues each know where they stand on the issue. But the deal with the drug manufacturers is apparently so important that supporters of drug importation are going to vote against the proposal.

It is important for the American people to understand why there has been this change of heart on this issue. The drug manufacturers are one of the few remaining health care groups that still support the Reid bill. They have committed to spend $150 million to buy television ads to support the Democrats efforts on health reform.

If my Democratic colleagues fail to adopt drug importation without the safety language, it is because the Senate Democratic leadership and the White House have decided they will do whatever it takes to keep the support of the drug manufacturers. They believe that the money these companies will spend will be enough to convince the American people to support their efforts.

The American people already understand that the Reid bill is not a good deal for them. They understand how this bill will raise their taxes, increase their insurance premiums and cut Medicare benefits for millions of seniors.

That is why over 60 percent of Americans now oppose the Democratic health reform proposals. No amount of advertising, funded by the drug companies or anyone else, is going to change that reality.

Mr. LEVIN. Mr. President, it has become apparent that passage of this Dorgan amendment relative to importation of prescription drugs, an amendment which I have long supported, could threaten passage of broader health care reform. If so, the perfect would become the enemy of the good. For that reason, I will vote ''no'' on the Dorgan amendment on this bill.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 3156 TO AMENDMENT NO. 2786

(Purpose: To provide for the importation of prescription drugs)

Mr. LAUTENBERG. Mr. President, I offer time to my colleague from New Jersey, Senator MENENDEZ—up to 11 minutes.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I appreciate my distinguished senior colleague from New Jersey yielding time. I know he is going to call up his amendment shortly, and that is what I want to speak to.

Mr. President, before I get to the core of my remarks, I want to tell my colleague who left the floor, I was tempted to rise under rule XIX that says:

> No Senator in debate shall, directly or indirectly, by any form or words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

I could impute, if I wanted to, I guess, that maybe there are some who really do not care about this plan as much as they care about killing health care reform, but I would not do that. I would not do that. So I hope in the context of the debate I am not forced to rise under rule XIX.

Mr. President, I rise in favor of the amendment of Senator LAUTENBERG, who is going to offer it shortly, because it does two things that underscore the entire debate about health care reform: It protects the American people by putting the safety of families first—and there is a lot of brushing aside of safety here; safety is paramount; safety is paramount—and it lowers costs. At its core, that is what this health care debate is all about.

I appreciate the intentions of the amendment that has been offered on the floor, but in my view it is regressive. It harkens back to a time when the lack of sufficient drug regulation allowed people to sell snake oil and magic elixirs that promised everything and did nothing. To allow the importation of untested, unregulated drugs made from untested and unregulated ingredients from 32 countries into the medicine cabinets of American families without serious safety precautions flies in the face of protecting the American people, and it is contrary to the context of health care reform.

The amendment by Senator LAUTENBERG brings us around to the real purpose of why we have been here on the floor, which is to create the type of reform that ultimately gives greater health insurance and greater safety to the American people.

They care about honest, real reform that makes health care affordable and protects American families, protects them from the potential of counterfeit drugs that promise to cure but do absolutely nothing, just as we are here to protect them from insurance policies that promise to provide health care for a premium and then deny coverage and provide no health care at all.

Basically, what Senator LAUTENBERG's amendment is going to do is modify the Dorgan amendment to allow reimportation but to do it when basic safety concerns to keep our prescription medications safe are complied with. It includes the Dorgan importation amendment but adds one fundamental element of broader health care reform: It protects the American people from those who would game the system for profits at the expense of the health and safety of American families. That is what this reform is all about. Specifically, when it comes to the importation of prescription medication, this amendment will help us be sure that what we think we are buying in the bottle is, in fact, what is in that bottle.

I want to make reference to a letter. We talk about safety, and there is a lot of pooh-poohing that, oh, there are no safety concerns. Well, there is one entity in this country that is responsible for safety when it comes to food and drugs, and it is called the FDA, the Food and Drug Administration. In a letter from FDA Commissioner Hamburg, she mentions four potential risks to patients that, in her opinion, must be addressed:

First, she is concerned that some imported drugs may not be safe and effective because they were not subject to a rigorous regulatory review prior to approval.

Second, the drugs ''may not be a consistently made, high quality product because they were not manufactured in a facility that complied with appropriate good manufacturing practices.''

Third, the drugs ''may not be substitutable with the FDA approved products because of differences in composition or manufacturing . . . ''

Fourth, the drugs simply ''may not be what they purport to be'' because inadequate safeguards in the supply chain may have allowed contamination or, worse, counterfeiting.

It addresses FDA Commissioner Hamburg's statement about the amendment of my colleague from North Dakota:

> that there are significant safety concerns related to allowing the importation of non-bioequivalent products, and safety issues—
>
> ''Safety issues''—
>
> related to confusion in distribution and labeling of foreign products and the domestic product that remain to be fully addressed in the amendment.

Senator LAUTENBERG's amendment addresses this concern. It allows importation, but it protects the American people by requiring that before any drug is imported to the United States, it must be certified to be safe and to reduce costs. So it does what the FDA Commissioner is talking about here, the agency responsible for protecting the American people. People may just want to not believe it, they may want to ignore it, but the fact is, this is the entity responsible in this country to protect the food supply and the drug supply.

We want to be as certain as we possibly can be of the conditions under which imported drugs are manufactured, that they are safe to use and we know where their ingredients originated before they are imported. We want to be absolutely certain patients are getting the prescription medications that are the same in substance, quality, and quantity that their doctor has prescribed. This amendment requires the Secretary of Health and

Human Services to certify that all imported drugs are safe and will reduce costs before they are allowed into America's medicine cabinets.

I have heard a lot about the European Union here. Well, let's look at what the European Union is now saying. They are constantly being offered on the floor for the reason why, in fact, we should follow what the European Union is saying. Well, let's see what happens if we allow unregulated importation. Let's look at the European Union.

Last week, the European Union Commissioner in charge of this issue said:

> The number of counterfeit medicines arriving in Europe . . . is constantly growing. The European Commission is extremely worried.
>
> In just two months, the EU seized 34 million—

Hear me: ''million''—

> fake tablets at customs points in all member countries. This exceeded our worst fears.

I do not want American families to see those fears come to life here. I believe that if we do not pass the Lautenberg amendment and if we were to pass the Dorgan amendment, we would open the floodgates. The European Union's experience only proves my concerns, not alleviates them as the other side would suggest.

Here is the problem: a $75 counterfeit cancer drug that contains half of the dosage the doctor told you you needed to combat your disease does not save Americans' money and certainly is not worth the price in terms of dollars or risk to life.

Let's not now open our national borders to insufficiently regulated drugs from around the world. It seems to me real health reform—particularly for our seniors and those who are qualified under the Medicare Program who receive their prescription coverage under that—comes by filling the doughnut hole in its entirety, which we have declared we will do in the conference, as we are committed to do, that provides for the coverage of prescription drugs that AARP talks about on behalf of its millions of members. That is what we want to see—not by unregulated reimportation.

We should have no illusions, keeping our drug supply safe in a global economy, in which we cannot affect the motives and willingness of others to game the system for greed and profit, will be a monumental but essential task. It will require a global reach, extraordinary vigilance to enforce the highest standards in parts of the world that have minimum standards now, so we do not have to ask which drug is real and which is counterfeit.

Let me just show some examples of those. People say: Oh, no, this safety issue is not really the case.

Tamiflu. We saw a rush, when the H1N1 virus came. People wanted to buy Tamiflu. As shown on this chart, which is the real one and which is the counterfeit one? There actually is one that is approved and one that is counterfeit, but the average person would not know the difference. Or if it is Aricept, a drug to slow the progression of Alzheimer's disease, which one is the real one and which one is the counterfeit one? If I did not tell you from the labels, you probably would not know, but there is an approved one and there is a counterfeit one. As someone who lost his mother to Alzheimer's, I can tell you that having the wrong drug in the wrong dosage would not have helped her slow the progression of her illness. It makes a difference.

Let's look at others. Lipitor; very important. You are walking around with a real problem with cholesterol, and you think you are taking the appropriate dosage and the appropriate drug. But, as shown on this chart, which is the real one and which is the counterfeit one? There is a counterfeit one and there is an approved one, a real one, but if you are taking the counterfeit one and you think you are meeting your challenges, you might have a heart attack as a result of not having the real one. By the time you figure it out, it could be too late to reverse the damage. That is the problem. That is the global economy opening up possibilities at the end of the day.

Mr. President, I ask the Senator from New Jersey for an additional minute.

Mr. LAUTENBERG. Mr. President, I yield 1 more minute to the Senator.

Mr. MENENDEZ. Finally, this is a gamble we cannot afford to take: To open up the potential for these drugs—or the ingredients used in these drugs—to find their way from nation to nation, from Southeast Asia, where the problem is epidemic, to one of the 32 nations listed in this amendment and then into the homes of American families. That is a gamble we cannot take. That is not about protecting our citizens. That is not about providing prescription drugs that ultimately meet the challenge of a person's illness. Filling the doughnut hole totally, which is what we are going to do, is the way to achieve it.

So I do hope that is what we will do. I do hope we will adopt Senator LAUTENBERG's amendment and defeat the Dorgan amendment, for I fear for the safety of our citizens, and I fear as to whether we can ultimately achieve filling that doughnut hole if this amendment, ultimately, gets adopted, and I fear what that means for health care reform at the end of the day.

With that, Mr. President, I yield back the remainder of my time and thank the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I call up amendment No. 3156—it is at the desk—and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mr. CARPER, and Mr. MENENDEZ, proposes an amendment numbered 3156 to amendment No. 2786.

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

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

(The amendment is printed in the RECORD of Thursday, December 10, 2009, under ''Text of Amendments.'')

Mr. LAUTENBERG. Mr. President, I rise today because one thing we have to do as we progress with this health care reform bill is to make sure prescription medicine in our country is safe and affordable. I thank my colleague from New Jersey for his excellent review of the conditions that cause us to add this amendment to Senator DORGAN's amendment that would allow potentially unsafe prescription drugs to be shipped across our borders and directly into the medicine cabinets of homes throughout America.

I want to be clear, the effect of this plan Senator DORGAN has offered could be catastrophic. That is why President Obama's administration has written to the Congress expressing its serious concerns with the Dorgan amendment.

I appreciate the efforts to try to lower prescription drug prices. After all, that is what we are doing with the whole health reform review—trying to get costs reduced so everyone can have safe and affordable health care. We want to make sure people do not harm their health with any shortcuts.

We all want Americans to stay healthy and still have some money left in their pockets. But as much as we want to cut costs for consumers, we cannot afford to cut corners and risk exposing Americans to drugs that are ineffective or unsafe.

The fact is, this is a matter of life and death. The European Commission just discovered that counterfeit drugs in Europe are worse than they feared. In just 2 months—and I know Senator MENENDEZ made reference to this as well—the EU seized 34 million fake tablets, including antibiotics, cancer treatments, and anticholesterol medicine.

As the industry commissioner of the EU said:

> Every faked drug is a potential massacre. Even when a medicine only contains an ineffective substance, this can lead to people dying because they think they are fighting their illnesses with a real drug.

Americans buy medicine to lower their cholesterol, fight cancer, and prevent heart disease. Imagine what would happen to a mother or a child if they start relying on medicine imported from another country only to find out years later that the drug was a fake. Imagine the heartbreak that might ensue if the medicine Americans were taking was found to be harmful. The fact is that drugs from other countries have dangerously high counterfeit rates and importation could expose Americans to those drugs.

Under the Dorgan amendment, drugs would be imported from former Soviet Union countries where the World Health Organization estimates that

over 20 percent of the drugs are counterfeit. Under the Dorgan amendment, drugs that originate in China could find their way into our homes. We know that China has been the source of many dangerous products in recent years, from toys laced with lead to toothpaste made with antifreeze.

If we are going to trust drugs from other countries, we need to be absolutely certain we are not putting Americans' lives at risk. That is why the Food and Drug Administration went on record to express its concerns with the Dorgan amendment. They say:

> There are significant safety concerns related to allowing the importation of non-bioequivalent products, and safety issues related to confusion in distribution and labeling of foreign products and the domestic product that remain to be fully addressed in the amendment.

That is from the FDA Commissioner Margaret Hamburg.

There are problems associated with the possibility of drugs coming to this country that are way different than that which is expected to be used in the treatment of sickness.

President Obama's FDA Commissioner also wrote and said that importing drugs presents a risk to patients because the drug may not be safe and effective, may not have been made in a facility with good manufacturing practices, and may not be the drug it claims to be.

In light of the serious concerns raised by the Obama administration, I am offering an amendment to require that the Department of Health and Human Services certify that the drugs are safe and will reduce costs before they are imported. My amendment is a commonsense bipartisan alternative to the Dorgan amendment. In fact, it is the exact same language as the Dorgan importation amendment, but with the certification requirement that is so important to ensure safety.

If we are going to allow the importation of drugs from other countries, we have to be certain they are safe and affordable. With this amendment, I would be in support of the Dorgan amendment. Only certification by health experts will provide that assurance. I urge my colleagues to support my amendment and oppose the Dorgan amendment.

We have no way of knowing what the working conditions might be like in a plant or a facility, or the sanitary conditions, in other countries, or whether in the process of packing and shipping temperatures might not be appropriate for the product to arrive without deterioration. Thusly, again, I stress—bring in what you want, just make sure it is safe for the people. There is no moment in the discussion we have had about the health care reform bill that says, Look, you can save money by taking a chance on a shortcut here or a shortcut there. Absolutely not. We wouldn't think of proposing anything such as that, and we ought not to be proposing it here now.

I yield 5 minutes to my colleague from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. HAGAN. Mr. President, I rise today to speak about drug reimportation. With millions of seniors balancing drug regimens that entail taking several medicines per day on a fixed income, I believe we need to find a way to ensure that they have access to affordable drugs. If we could reduce the cost of drugs with reimportation and guarantee the safety of those drugs, I would be very supportive. However, I have serious doubts that we can adequately ensure the safety of our drug supply with the drug reimportation amendment proposed by my colleague from North Dakota.

Even without reimportation, the United States has had trouble with counterfeit drugs. At the height of the H1N1 epidemic this fall, the FDA was warning consumers to be wary of counterfeit H1N1 treatments. These counterfeits came from foreign online pharmacies. In one instance, the FDA seized so-called H1N1 treatment tablets from India and found them to contain talc and acetaminophen. Last month, the Washington Post reported on a coordinated global raid of counterfeit drugs from the United States to Europe to Singapore. The United States discovered about 800 alleged packages of fake or suspicious prescription drugs, including Viagra, Vicodin, and Claritin, and shut down 68 alleged rogue online pharmacies.

Counterfeit pharmaceutical drugs are appearing on the market at increasingly alarming rates. In 2007, drugs comprised 6 percent of the total counterfeit product seizures. In 1 year, they have now jumped to 10 percent of all counterfeit product seizures.

This growing problem is all about unscrupulous criminals preying on the sick and the elderly who are in desperate need of cheaper drugs. But the consequences are harmful and, in some cases, deadly.

Officials estimate that some of these counterfeit drugs contain either a dangerous amount of active ingredients or were placebos. Some counterfeits include toxic chemicals such as drywall material, antifreeze, and even yellow highway paint.

According to a recent Washington Post article, tracing the origins of drugs such as Cialis and Viagra took investigators across the globe and back again. Supposedly these drugs came from a warehouse in New Delhi, though the online company selling the drug was headquartered in Canada and was licensed to sell medicine in Minnesota. However, when Federal officials investigated the drug origins further, they actually found that the online Web site was registered in China, its server was hosted in Russia, and its headquarters had previously been listed in Louisiana.

On a local level near our capital, the Baltimore Sun yesterday reported on the death of a University of Maryland pharmacologist, Carrie John. Ms. John suffered an allergic reaction to a counterfeit version of a legal drug in the United States but purchased illegally from the Philippines. Apparently, the counterfeit drug so closely resembled the legal version that two pharmacologists conducting the analysis after Ms. John's death could not tell the difference. Local police have yet to identify the contents of the counterfeit drug.

A few of my colleagues have already mentioned the letter sent last week by FDA Commissioner Margaret Hamburg outlining the safety concerns the FDA has about reimportation. Specifically, the FDA stated that importing non-FDA-approved prescription drugs posed four potential risks to patients. Let me go over those four risks.

No. 1: The drug may not be safe and effective because it did not undergo the rigorous FDA regulatory review process.

No. 2: The drug may not be a consistently made, high quality product because the facility in which it was manufactured was not reviewed by the FDA.

No. 3: The drug may not be substitutable with the FDA-approved product because of differences in composition or manufacturing.

No. 4: The drug could be contaminated or counterfeit as a result of inadequate safeguards in the supply chain.

If the agency that oversees drug safety is saying it would have difficulty guaranteeing the safety of our Nation's drug supply with reimportation, I have grave concerns, particularly since the FDA is already underfunded and understaffed.

But let's take a moment to examine how Europe, which does allow reimportation, has fared in terms of safety.

British authorities say counterfeit drugs often exchange hands between middlemen and are repackaged multiple times before reaching a legitimate hospital or pharmacist. This creates opportunities for counterfeit products, often produced in China and shipped through the Middle East, to penetrate the European market.

The PRESIDING OFFICER. The Senator has used her 5 minutes.

Mrs. HAGAN. Mr. President, I ask unanimous consent for 3 additional minutes.

Mr. LAUTENBERG. No objection.

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

Mrs. HAGAN. In 2008, British authorities identified 40,000 doses of counterfeit Casodex, a hormone treatment for men with advanced prostate cancer, and Plavix, a blood thinner.

More recently, the European Union seized 34 million fake tablets at customs points in all member countries. In other countries around the world, the World Health Organization estimates that up to 30 percent of the medicines on sale may be counterfeit. As a result, numerous people have died.

Earlier this year, 80 infants in Nigeria died from teething medicine that contained a toxic coolant. In July, 24 children in Bangladesh died from the consumption of poisonous acetaminophen syrup.

The Dorgan amendment does not require imported drugs to be FDA approved or meet FDA misbranding standards. Furthermore, it does not prevent criminals in other countries from repackaging imported drugs.

Although our safety system is not perfect, we have a thorough FDA review system for drug safety that actively involves physicians, pharmacists, and patients. As a result, Americans can be generally confident that our medications are safe and contain the ingredients on the bottle.

Supporters of reimportation argue that the sick and elderly need an alternative way to obtain affordable drugs. However, a study by the London School of Economics found that in the European Union, middlemen reaped most of the profits with relatively little savings passed down to the consumer. Nothing in the Dorgan amendment requires the savings to be passed on to the consumer, leaving the door wide open for unscrupulous, profit-seeking third parties to get into the reimportation game.

In the United States, we are already trying to reduce the cost of prescription drugs through the use of generics. This is one of the most effective ways for customers to reap savings, and the generic dispensing rate at retail pharmacies is close to 65 percent. The FDA is already working with stakeholders to develop drug reimportation policy. With the FDA looking into this and significant outstanding safety concerns, I cannot in good conscience support the amendment offered by my colleague from North Dakota. Instead, I will support the amendment offered by my colleague from New Jersey. The Lautenberg amendment will allow the importation of drugs only if the Secretary of Health and Human Services certifies that doing so would save money for Americans and would not adversely affect the safety of our drug supply.

While it is critical that all Americans, especially our Nation's seniors, have access to affordable drugs, it is imperative that we not compromise the safety of U.S. drugs on the market. After all, what good are cheap drugs if they are toxic or ineffective?

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I believe my colleague from North Dakota intends to make further remarks. How much time do we have on our side, please?

The PRESIDING OFFICER. The Senator from New Jersey controls 13 minutes.

Mr. LAUTENBERG. Thirteen minutes.

Mr. President, if Senator DORGAN is here, then we are trying to accommodate a colleague who wishes to speak on this. How much time is left on the Dorgan side?

The PRESIDING OFFICER. The Senator from North Dakota has 28 minutes remaining.

Mr. LAUTENBERG. Mr. President, we heard about what is happening in the EU having to do with the question of whether drugs are counterfeit and the serious consequences of having people take medication that is not what it is supposed to be—the consequences of something like that, especially interfaced with other products.

There was a news report last week that was printed in Yahoo News. They quote the Industry Commissioner of the European Union—the program in Europe that controls drug safety or at least attempts to. We see that the European Union has expressed concern about the situation they see there. The Commissioner, Mr. Verheugen, said he expected the EU to take action to fight the menace of fake pharmaceuticals. Then he said he thought the EU would agree, in 2010, that a drug's journey from manufacture to sale should be scrutinized carefully and there will be special markings on the packages.

There is a lot of concern about this, and we ought not to dash willy-nilly through here without understanding what the consequences of fake medication might be. I wish to see our people pay as little as they can to get the medicines they need. Part of that has to include a safety factor. As I said earlier, we would not suggest anything in the health reform bill that would take a shortcut and disregard safety. I have a letter that was sent from the Department of Health and Human Services, which I quoted a little bit ago. They say the letter is being sent on the amendment filed by Senator DORGAN. The administration supports this program, which I agree to, to buy safe and effective drugs from other countries and included $5 million in our 2010 budget.

They go on to say—and this is from the Commissioner of Food and Drugs—that:

> Importing non-FDA-approved prescription drugs presents four potential risks to patients that must be addressed: (1) the drug may not be safe and effective because it was not subject to a rigorous regulatory review prior to approval; (2) the drug may not be consistently made, high quality product because it was not manufactured in a facility that complies with appropriate good manufacturing practices; (3) the drug may not be substitutable with the FDA-approved product because of differences in composition or manufacturing; and (4) the drug may not be what it purports to be, because it has been contaminated or is a counterfeit due to inadequate safeguards in the supply chain.

I ask unanimous consent that this letter, sent to Senator TOM CARPER, from the Department of Health and Human Services, be printed in the RECORD.

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOOD AND DRUG ADMINISTRATION,
Silver Spring, MD, December 8, 2009.

Hon. TOM CARPER,
U.S. Senate,
Washington, DC.

DEAR SENATOR CARPER: Thank you for your letter requesting our views on the amendment filed by Senator Dorgan to allow for the importation of prescription drugs. The Administration supports a program to allow Americans to buy safe and effective drugs from other countries and included $5 million in our FY 2010 budget request for the Food and Drug Administration (FDA or the Agency) to begin working with various stakeholders to develop policy options related to drug importation.

Importing non-FDA approved prescription drugs presents four potential risks to patients that must be addressed: (1) the drug may not be safe and effective because it was not subject to a rigorous regulatory review prior to approval; (2) the drug may not be a consistently made, high quality product because it was not manufactured in a facility that complies with appropriate good manufacturing practices; (3) the drug may not be substitutable with the FDA-approved product because of differences in composition or manufacturing; and (4) the drug may not be what it purports to be, because it has been contaminated or is a counterfeit due to inadequate safeguards in the supply chain.

In establishing an infrastructure for the importation of prescription drugs, there are two critical challenges in addressing these risks. First, FDA does not have clear authority over foreign supply chains. One reason the U.S. drug supply is one of the safest in the world is because it is a closed system under which all the participants are subject to FDA oversight and to strong penalties for failure to comply with U.S. law. Second, FDA review of both the drugs and the facilities would be very costly. FDA would have to review data to determine whether or not the non-FDA approved drug is safe, effective, and substitutable with the FDA-approved version. In addition, the FDA would need to review drug facilities to determine whether or not they manufacture high quality products consistently.

The Dorgan importation amendment seeks to address these risks. It would establish an infrastructure governing the importation of qualifying drugs that are different from U.S. label drugs, by registered importers and by individuals for their personal use. The amendment also sets out registration conditions for importers and exporters as well as inspection requirements and other regulatory compliance activities, among other provisions.

We commend the sponsors for their efforts to include numerous protective measures in the bill that address the inherent risks of importing foreign products and other safety concerns relating to the distribution system for drugs within the U.S. However, as currently written, the resulting structure would be logistically challenging to implement and resource intensive. In addition, there are significant safety concerns related to allowing the importation of non-bioequivalent products, and safety issues related to confusion in distribution and labeling of foreign products and the domestic product that remain to be fully addressed in the amendment.

We appreciate your strong leadership on this important issue and would look forward to working with you as we continue to explore policy options to develop an avenue for the importation of safe and effective prescription drugs from other countries.

Sincerely,

MARGARET A. HAMBURG,
Commissioner of Food and Drugs.

Mr. LAUTENBERG. Mr. President, I will now suggest the absence of a quorum and ask unanimous consent that it be charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Reserving the right to object, Mr. President. You can't do that to us because we only have 8½ minutes left on our side.

Mr. LAUTENBERG. You have considerably more based on—

Mr. GRASSLEY. We only have 8½ minutes.

Mr. DORGAN. Mr. President, I ask the Senator to withhold his request for a quorum.

Mr. LAUTENBERG. Yes, I withdraw the request.

Mr. DORGAN. Mr. President, back in the mid-1800s, when Lincoln and Douglas were having their famous debates, at one point Lincoln was exasperated because he could not get Douglas to understand something he was saying. He said to Douglas: Listen, how many legs does a horse have? Douglas said: Four, of course. Lincoln said: If you call the tail a leg, how many legs would he have? Douglas said: Five. Lincoln said: There is where you are wrong. Simply calling a tail a leg doesn't make it a leg at all.

Yes, that is exactly what my colleagues have done, suggesting the amendment we are offering is for untested, unregulated drugs. It is not true. The only drugs we are talking about are FDA-approved drugs that are made at an FDA-inspected plant, part of a chain of custody equal to the U.S. chain of custody. It is simply not true that we are talking about untested, unregulated drugs. That is not true. Simply saying that doesn't make it true.

Here is why we are on the floor of the Senate. We are reforming health care. That is what the bill is. Part of health care is prescription drugs. A lot of people take prescription drugs to keep them out of a hospital bed. It manages their disease. Prescription drugs are very important.

Here is what happened to the prices year after year. As you can see on this chart, the rate of inflation is in yellow and the prescription drug prices are in red. This year alone, it is up 9 percent, at a time when inflation is below zero.

Well, why do we want to be able to access the same FDA-approved drug where it is sold elsewhere at a fraction of the price? Because the American people will pay in the next decade—if we don't pass this legislation—$100 billion in excess prescription drug prices. If you need to take Nexium for acid reflux—maybe after this vote we will all need it. But if you are going to buy Nexium, it costs $424 for an equivalent quantity in the United States. You can buy it for $41 in the UK, $36 in Spain—but it is $424 here. Sound fair? Not to me.

Lipitor is the most popular cholesterol-lowering drug in the world. It is $125 in the United States for an equivalent quantity. You get the same thing for $40 in the UK or one-third of the price. It is $32 in Spain, one-fourth the price. It is $33 in Canada. The American people get to pay triple or quadruple the price. By the way, it comes in these bottles. I ask unanimous consent to use the bottles.

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

Mr. DORGAN. They both contained Lipitor that is made in Ireland by an American corporation. They have different colored labels, but they are made in the same plant, FDA approved, and they are sent to different places—this one to Canada and this one to the United States. But we have the privilege of paying triple the price. Sound fair? Not to me it doesn't.

Here is a sample. Boniva, for osteoporosis, is up 18 percent this year. Singulair, for asthma, is up 12 percent. Enbrel, for arthritis, is up 12 percent. Here is Plavix—the list goes on.

The question is, Is there something we ought to do about this or should we say let's pass health care reform and ignore what is happening to the price of prescription drugs? This amendment I offered, along with Senators MCCAIN and GRASSLEY and other colleagues on this side—30 cosponsors—is all about freedom for the American people. If this is a global economy, how about giving the American people the freedom to access identical prescription drugs, which we know are identical because we require safety if it doesn't even exist in our own supply. Those who talk about safety, I remind them 40 percent of the active ingredients in prescription drugs of the United States come from India and China—from places that have never been inspected.

The Wall Street Journal did terrific expose about this. There were over 60 people who died from Heparin in this country. It was contaminated. Here is where they were making it. This picture was in the investigation. Here is a rusty old pot being stirred with a limb from a tree. Those are active ingredients for American drugs. This guy is working with pig intestines—guts from a hog. This old man here, with a wooden stick—it looks unsanitary doesn't it? That is the source of Heparin. These are the photographs by the Wall Street Journal investigative reporter. They are telling us FDA-approved drugs coming from other countries, with a chain of custody identical to ours, would pose some sort of threat. Are you kidding? You can make that charge without laughing out loud?

Let's talk about the existing drug supply for a moment. This is a young man named Tim Fagan. He was a victim of counterfeit domestic drugs in this country—not imported FDA-approved drugs. Do you know where this guy's drug came from? Here is the report done on that. It is made by Amgen. It went through all these places. It ended up at a place called Playpen, which is a south Florida strip club—in a cooler in the back room of a south Florida strip club. At one point it was stored in car trunks. Finally, it was prescribed and administered to this young man named Tim Fagan. He survived, but he was getting medicine with one-twentieth the necessary strength for a serious disease that his doctor intended for him.

Don't talk to me about the issue of prescription drug safety. We are talking about safety that doesn't now exist in the domestic drug supply, but safety standards are included in this amendment. Every drug should have a pedigree to track where it came from and, in every respect, between manufacture and consumption. There ought to be batch lots and tracers for every drug. There ought to be pedigree for the domestic drug supply as well.

I wish to quote a former vice president of Pfizer Corporation, a prescription drug manufacturer, Dr. Peter Rost:

> Right now, drug companies are testifying that imported drugs are unsafe. Nothing could be further from the truth.

This is from a vice president of one of the major drug companies—''nothing can be further from the truth.'' He was fired, to be sure. You can't say that if you are working for a drug company. Their business is to try to keep the pricing strategy the way it is.

I might say, I don't have a beef with the drug industry. I have a beef with their pricing policy that says we will sell the same drug everywhere in the world at a fraction of the price we charge the American consumer. How do you make that stick? By a sweetheart deal in law that says the American consumer cannot import the drug. The Spanish can import drugs from Germany. The French can import drugs from Italy. But the American consumer is told you don't have the freedom to shop for that same FDA-approved drug—approved because the place where it is produced is inspected by the FDA, in a country with an identical chain of custody, but the U.S. consumer doesn't have the freedom to make that purchase.

If I might, Dr. Peter Rost, the same guy just I quoted, said:

> During my time responsible for a region in northeastern Europe, I never once—not once—heard the drug industry, regulatory agencies, the government, or anyone else say this practice was unsafe, and I personally think it is outright derogatory to claim that the Americans would not be able to handle the reimportation of drugs, when the rest of the educated world can do this.

Dr. Peter Rost also said:

> The biggest argument against reimportation is safety. What everyone has conveniently forgotten to tell you is that, in Europe, reimportation of drugs has been in place for 20 years.

Hank McKinnell, a former Pfizer CEO, said:

> Name an industry in which competition is allowed to flourish—computers, telecommunications, small package shipping, retailing, entertainment, and I'll show you lower prices, higher quality, more innovation, and better customer service. There is

nary an exception. OK, there is one. So far, the health care industry seems immune to the discipline of competition.

Nowhere is that more evident with respect to pharmaceutical drugs.

The question today is, Will we once again offer a prescription drug importation bill that will save consumers and the Federal Government $100 billion; that contains safety standards that do not exist even in the domestic drug supply; that will not pose risk but, in fact, reduces risk, reduces prices for the American people, provides fair pricing for American consumers? Will we be able to vote for that legislation that I and Senator MCCAIN, Senator GRASSLEY, Senator STABENOW, Senator KLOBUCHAR, and so many others have brought to the floor of the Senate? The answer is, yes; we are going to vote on that.

The question is, In the 7 days since I have offered this amendment, has the pharmaceutical industry been able to pry enough people away from this amendment because they are raising all kinds of issues of safety?

How many votes will we get? By the way, the side-by-side amendment is a killer amendment. We will have a second vote. A lot of people will say: We will vote for the Dorgan amendment and then vote to nullify it by voting for the Lautenberg amendment.

Let me read the AARP letter which was sent yesterday:

On behalf of the AARP's nearly 40 million members, we urge you to support the Dorgan-Snowe importation amendment to . . . H.R. 3590, the Senate health care reform legislation. This amendment provides for the safe, legal importation of lower-priced prescription drugs from abroad. CBO has scored the amendment as saving taxpayers more than $19 billion.

That is just for the Federal Government. There is much more for consumers.

We also urge you to vote against an alternative importation amendment proposed by Senators Lautenberg, Carper, and Menendez. AARP strongly opposes this amendment because it includes the unnecessary addition of a certification requirement which is simply a thinly veiled effort to undermine importation and preserve the status quo of high drug prices.

So there it is. We are always told this bill is a finely crafted piece; it is like embroidering with some sophisticated colors. This is a finely crafted piece and don't mess with it because if you adopt your amendment, somehow the whole thing is going to come apart. It is like pulling a thread on a cheap suit. You pull the thread and an arm falls off. God forbid anybody should adopt an amendment such as this.

Here we are 7 days after I offered this amendment, and we have a circumstance where we now have a side-by-side in order to try to nullify it. We have had all kinds of dealing going on. I have not been a part of it. I don't know what the deals are. I don't know what time they were consummated. Somebody told me late last night. I am like an old Senator who served long ago. I am not part of any deal. I am not part of it. This deal is for the American people.

We are going to pass some health care legislation, and then we are going to shuffle around with our hands in our pockets, maybe thumbing our suspenders, sticking out our shined shoes, and say: We did this all right. We feel really good about it, but we couldn't do a thing about prescription drug prices. We couldn't do that. We didn't have the support because the pharmaceutical industry wouldn't let us. Oh, really? Maybe at last—at long, long last—there will be sufficient friends on this vote on behalf of the American people to say: We stand with the consumer. We are standing with the American consumers today. We like the pharmaceutical industry. We want them to produce prescription drugs. We want them to make profits. We just don't want them to charge us 10 times, 5 times, 3 times, or double what is being charged others in the world for the identical prescription drug because we don't think it is fair to the American people.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 13½ minutes.

Mr. DORGAN. Mr. President, let me at this point yield the floor. I suggest the absence of a quorum. I don't know whether the Senator from New Jersey has other speakers. I believe we have a couple other speakers who will be here. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. DORGAN. Mr. President, I ask unanimous consent that the quorum call be charged against both sides.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. Mr. President, there was an objection to having the time equally divided expressed by the Senator from Iowa before.

How much time is available on our side, Mr. President?

The PRESIDING OFFICER. The Senator from New Jersey has 7 minutes.

Mr. LAUTENBERG. Seven?

The PRESIDING OFFICER. Yes, 7 minutes.

Mr. LAUTENBERG. Mr. President, I, too, have people who want to speak to the issue. If we can equally divide the quorum call, that is all right with me. I have no objection.

Mr. DORGAN. I believe the quorum call will be momentary. We have people coming to speak. If not, I will take some additional time, as perhaps will the Senator from New Jersey. I suggest the absence of a quorum and ask unanimous consent that it be charged to all sides equally.

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

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I did not speak about the letter from the Food and Drug Administration. My colleagues have described this letter, which I said could have come out of a copying machine. A similar letter has come each time we consider this legislation. It is interesting to me that we export a lot of American jobs. All kinds of jobs are leaving our country. Then we import contaminated wallboard, children's toys that kill kids. And, yes, that has happened. We import contaminated pet food and contaminated toothpaste. We import 85 percent of the seafood into this country every day—85 percent of the seafood—and 1 percent is inspected, by the way. One percent of that seafood is inspected. The rest is not.

We import fruits and vegetables. I am wondering if the Food and Drug Administration is sending letters around with concern about the risk to health of fruits and vegetables and seafoods that are not inspected.

In many places, these products are produced with insecticides and various things that would not be permitted in this country. I am wondering where the FDA's letter is with respect to that.

I called the Food and Drug Administration. I talked with the head of the FDA. I said: I understand there are rumors around that you are going to send a letter here. This was 24 hours before the letter came.

The head of the FDA said: I know nothing of such a letter.

My question is, Where did the letter come from? Who prompted the letter? I think I know.

I find it interesting, I don't see anybody at the FDA sending letters here about the issue of safety on fruits, vegetables, and fish. They raise the issue of safety with respect to a drug importation bill which has the most specific and the most rigorous safety standards not only for imported drugs but for the existing domestic drug supply, the kind of safety standards that the pharmaceutical industry has objected to for many years.

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

Mr. DORGAN. Of course, I will be happy to yield.

Mr. LAUTENBERG. I know Senator DORGAN very well. He is a man of great principle and skill, I might say. But I say the list of aberrations, the lack of care about the various products—the toys, wallboards, and food—I have had a great interest in those items. It is interesting that it is being suggested by the Senator from North Dakota that is an acceptable standard and we ought to go ahead and continue it.

Mr. DORGAN. The Senator is not asking a question. I yielded to the Senator for a question. If he would truncate it, I would appreciate it.

Mr. LAUTENBERG. The question is whether, if you think that casual standard for bringing in food and other products is acceptable—

Mr. DORGAN. Reclaiming my time.

Mr. LAUTENBERG.—therefore, we ought to do the same with drugs?

Mr. DORGAN. Reclaiming my time, the answer is self-evident by the question. Of course, we would benefit from stricter standards for fish, vegetables, and fruits. That was the point I was making. But what we have done with respect to importation of prescription drugs is we have included batch lots and pedigrees and tracers that do not exist in the existing drug supply. Why? The existing drug supply does not have those provisions because they have been objected to over the years by the pharmaceutical industry.

We have put in place procedures that will make this safe. You cannot say the same thing about fruits, vegetables, and seafood, unfortunately. A lot of work needs to be done there. But we do not bring a bill to the floor of the Senate, a bipartisan group of legislators, a bill that would in any way injure or provide problems with respect to safety.

What we do is bring to the floor of the Senate legislation that dramatically enhances the margin of safety for prescription drugs. But I understand, I understand completely. If I were trying to protect, and I were the drug industry trying to protect billions, boy, I understand the exertion of effort to try to protect that.

My only point is this: I have a beef with an industry that decides they are going to overcharge the American people, in some cases 10 times more, in some cases 5, double the price that is paid in other parts of the world for the identical drug. I don't think that is fair, and I don't think we should allow it to continue. The way to prevent it is to give the American people the freedom—every European has that freedom.

Let me end with how I began. For somebody to come out here and say this is about unregulated, untested drugs is absolute sheer nonsense. It is not. We do not have to debate what words mean and what words say. That is not a debate we ought to take time to have. All we have to do is read it and then represent it accurately, which has not been the case on the floor of the Senate, regrettably.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, is it the case when a quorum call is requested it is equally charged?

The PRESIDING OFFICER. No.

Mr. DORGAN. Mr. President, I ask unanimous consent that the quorum call be equally charged on both sides. I suggest the absence of a quorum.

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

The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. BAUCUS. Mr. President, I would like to remind us why we are here—health care reform—and why health care reform is so important. I would like to go through the costs of inaction, what the consequences are if we do not pass health care reform.

First of all, rising health care costs are wrecking the lives of Americans. In 2007, 62 percent of bankruptcies were due to medical costs. This legislation will help reduce the rate of growth of health care costs. In fact, the President's Council on Economic Advisers and the President just announced today or yesterday there will be a 1-percent reduction in national health care costs. CBO basically said this bill is deficit neutral, and it will have an effect on reducing health care costs. This bill will reduce health care costs.

A Harvard study found, in addition, when people do not have health insurance, they are more likely to be much more ill.

Harvard found every year in America lack of health insurance leads to 45,000 deaths. If Americans do not have health insurance, it leads to 45,000 deaths in our country. That is intolerable. How can we in the United States of America—we pride ourselves as the biggest, the strongest, the most moral country on the globe. How can we allow 45,000 deaths just because somebody does not have health insurance? People without health insurance have a 40-percent higher risk of death than those with private health insurance.

How does this bill affect Medicare? According to the CMS Actuary, Medicare is projected to go broke in about the year 2017. CMS has estimated this will actually extend solvency to the year 2026.

That is very important, Mr. President. It is an important message to seniors—that the Medicare trust fund solvency will be extended under this legislation for at least 9 more years, beyond 2017. I wish it were further, but that is a lot better than not extending solvency—extending solvency for that period of time.

The bill also would increase the percentage of people who have health insurance from about 83 percent to 94 percent. That, too, is no small matter.

Our legislation would reform the insurance market to protect those with preexisting conditions. It would prevent insurance companies from discriminating and capping coverage, and it would require insurance companies to renew policies as long as policyholders pay their premiums.

Let me just say a bit more, with a little more precision, about premium costs. The Centers for Medicare & Medicaid Services, the Office of the Actuary, confirmed this. They confirmed that this legislation will cover 33 million Americans who are currently uninsured and will do so while significantly reducing Medicare costs and Medicaid spending. Think of that. This legislation will cover 33 million Americans who are currently not covered at the same time reducing Medicare and Medicaid costs.

Don't take my word for it. That is the projection of the Chief Actuary of CMS. In addition, as I mentioned, the Chief Actuary says this will extend the life of the trust fund for 9 years.

Moreover, this legislation reduces the cost to seniors, to a family, by $300 by 2019. Medicare Part B premiums, according to the Actuary, will be $300 lower than it otherwise would be. The out-of-pocket costs would be, for a couple—I think it is roughly $400. That is a total of about a $700 reduction for a couple in 2019. So a reduction in Medicare Part B premium costs and a reduction in out-of-pocket costs.

Essentially, the Actuary concludes, and I will read the quote:

> The proposed reductions in Medicare payment updates for providers, the actions of the Independent Medicare Advisory Board, and the excise tax on high-cost employer-sponsored health insurance would have a significant downward impact on future health care cost growth rates.

Again, a ''significant downward impact on future health care cost growth rates.'' The Actuary says the bend in the cost curve is evident. The Actuary also concludes that in 2019 health expenditures are projected to rise by 7.2 percent with no change but 6.9 percent under the proposal. That is, under the proposal, health care costs will rise at a lower rate than they will if this legislation does not pass.

In addition, this report shows how health insurance costs for millions of Americans will reduce premiums by 14 to 20 percent for people in the individual market. Actually, that was the Congressional Budget Office that reached that conclusion and not the Actuary. The Congressional Budget Office has basically concluded that for 93 percent of Americans premiums will be lowered. For 93 percent of Americans premiums will be lower.

It is true that for those who are employed—the five-sixths of persons who now have health insurance—their premiums would not go down a heck of a lot, but they will start going down due to this legislation. For the 7 percent whose premiums are not reduced, they get a better deal. That 7 percent will have much higher quality health insurance than they now have, basically because of no more denial of care for preexisting conditions, market reform,

rating reform, no more rescissions, et cetera. So this is a very good deal.

I would like to say one word, too, on health care cost reduction. A lot of Senators have quoted an article by Dr. Gawande from The New Yorker magazine—I think it was dated June 2—explaining the phenomenon of geographic variations in this country and why health care costs are much higher in some parts of America and much lower in other parts of America, which is due mostly to the way we pay health care providers and doctors in the system, therefore explaining the basic reason there is so much waste in the American health care system.

Dr. Gawande published another article in The New Yorker a week or 2 ago, and in that article he basically says of all the ideas that have been suggested by economists, by practitioners, by providers, and people worried about the rise of health care costs in America, all of the ideas are in this legislation. They are all in here. All the ways to work to start to lower health care costs are in this legislation.

He also says the pilot projects and the demonstration projects in this legislation are good because you have to work a little bit, you have to experiment a little, you have to try this and try that to see where bundling works and see where it does not work. But the provisions are there.

We can all be quite confident that this administration is going to do its level best to make sure these projects work—that is the bundling, the moving toward quality as a basic reimbursement in the way of quantity. The administration is going to work very hard to make sure they work. I will say, too, as chairman of the Finance Committee, the committee of primary jurisdiction over these subjects, that we are going to have a lot of oversight hearings next year because it is very much in the interest of the American people to make sure this legislation works and works very well. Clearly, with aggressive oversight hearings next year we can help make sure that happens.

One other point. This bill represents a net tax cut, not a tax increase—a net tax cut for individuals, not a tax increase. Why do I say that? I say that because that is what the Joint Committee on Taxation says. What is the Joint Committee on Taxation? It is a committee, an organization in Washington that serves both the House and the Senate. It serves Republicans and Democrats. There is not one iota of partisanship in it. It is totally objective, very solid, very confident. They are the outfit we rely on when we write tax legislation.

Basically, they say by the year 2019, Americans will see a net tax cut of $40 billion, and that tax cut is equal to an average tax decrease of more than $440 per affected taxpayer. And for low- and middle-income taxpayers making less than $200,000, this cut is even greater. The average tax credit is equal to more than $640 per affected taxpayer in the year 2019.

To repeat: This bill, according to the Joint Committee on Taxation, is a net tax cut for individuals—a cut, not an increase but a cut—almost as great as the 2001 tax cut. Many of us know how great that was. This is the biggest tax cut since 2001—this legislation.

I also want to discuss a couple other points. A lot of people say: Well, gee, some of this does not take effect for several years. Let's go through what takes effect right away, in 2010. What are the provisions that take effect right away? I will read the list.

The first is—the fancy term is ''pools''—to help people with preexisting conditions get access to health insurance even before the actual denial of preexisting conditions kicks in. There is $5 billion of Federal support for higher risk pools providing affordable coverage to uninsured persons with preexisting conditions. That takes effect right away.

Second, reinsurance for retiree health benefit plans. Basically, that means there is immediate access to Federal reinsurance for employer plans providing coverage for early retirees—for ages between 55 and 64. Essentially, that means extra dollars are available for the outliers. That is a fancy term for saying the high-cost people in that age group—55 to 64.

In addition, we extend dependent coverage for young adults. Today, a young couple buys health insurance for themselves and their kids, and once the child is 21 there is no more health insurance. We raise that level to the age of 26 so that person can stay with the family and have the family's health insurance.

Moreover, this legislation requires that health insurers must provide prevention and wellness benefits but no deductibles and no cost-sharing requirements. That, too, will help quite a bit. That takes effect right away.

Moreover, right away, in 2010, the legislation prohibits insurers from imposing annual and lifetime caps. Not later but right away there is a prohibition against insurers from imposing annual lifetime dollar limits—a big problem today.

Moreover, right away, this legislation will stop insurers from nullifying or rescinding health insurance policies when claims are filed. Rescissions are a big problem today. In 2010, when this legislation passes, no more rescissions of health care policies.

Moreover, this legislation sets minimum standards for insurance overhead costs to ensure that most premium dollars are spent on health benefits, not costly administration or executive compensation and profits. We also require public disclosure of overhead and benefit spending and premium rebates. That is right away.

What about small business persons—small businessmen? This legislation offers tax credits to small businesses with low wages to make covering their workers more affordable. It takes effect in 2010, and credits of up to 50 percent of insurance premiums will be available to firms that choose to offer coverage.

I might also say there are stronger small business provisions, too, that I am quite certain will be in the managers' amendment. Greater incentives to the tune of about $12 billion to $13 billion for small businesses will be in this legislation and will also be in the managers' amendment.

Moreover, what will take effect next year, not later, is we have closed the coverage gap for the Medicare drug benefit. Basically, that means we have closed the doughnut hole—we are starting to close the doughnut hole. Seniors pay very high prices for brand-name drugs if they are in that so-called doughnut hole. We close it so that seniors don't have to pay those high prices anymore.

There is public access to comparable information, more transparency, and I could go on and on and on. There are many provisions which take effect right away and not at a later date.

Mr. President, I believe that debate is drawing to a conclusion on the four matters under consideration. We may be able to have votes as soon as 5:30.

I see my colleagues from Kansas and Iowa on the Senate floor, and I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to use 5 minutes of Senator MCCONNELL's time—the Republican leader's time.

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

Mr. BROWNBACK. Mr. President, I thank my colleagues for this opportunity to address the Lautenberg amendment and speak in favor of the Lautenberg amendment.

I oppose the base bill. I oppose the bill overall. I have spoken a number of times in opposition to the overall bill. It is way too expensive, it cuts Medicare, raises taxes, and inserts the funding of abortion, which is something we haven't looked at in 30 years. The Hyde language has not allowed funding of abortion, and instead this does and puts it in, and I think it will result in poorer health care for a number of Americans.

But the issue I rise on today is on the Lautenberg amendment, and in support of the Lautenberg amendment. This is an amendment we have seen in this body four times previously over the last 10 years. Each time the Lautenberg amendment has passed overwhelmingly, and that is because of the safety concerns for drugs coming into the United States.

I would note that Secretary Sebelius, Secretary of HHS—Health and Human Services—who before being named to this position was the Governor of the State of Kansas for 6 years, with whom I worked over the years, through her office has stated they cannot basically certify the safety of these drugs.

There is a letter that has been gone over in some depth and length from the Food and Drug Commissioner saying that it is going to be very difficult for them to certify the safety of these drugs. Yet what the Lautenberg amendment does is it says: OK, if you can certify safety, and this is going to reduce the price, then they can be admitted.

That seems to make sense. That is why 4 times over the last 10 years this body has passed the Lautenberg amendment, or an equivalent, and I think that is appropriate.

I would also note there is a huge industry in the United States—the pharmaceutical industry—that is quite concerned about the safety and efficacy of what this bill would do in not allowing the safety of the drugs if you don't pass a Lautenberg amendment. They are very concerned about that. And toward that regard, I will read pieces of a letter sent to me by Kansas Bio. It is the Kansas Biosciences Organization. They sent this letter to me saying:

On behalf of the members of Kansas Bio, please accept this letter in opposition to Senator Dorgan's drug importation amendment to the health care reform legislation which may be voted on by the Senate. We believe that the promotion of drug importation is an extremely risky endeavor which threatens the livelihood of one of Kansas' fastest growing bioscience industry sectors—the service providers to our Nation's and our world's drug development and delivery companies.

KansasBio is an industry organization representing over 150 bioscience companies, academic institutions, State affiliates, and related economic development organizations in the State of Kansas, throughout the Kansas City region. . . . Senator DORGAN's amendment opens up the risk of allowing foreign drugs that do not have FDA approval into the United States and thereby posing significant health and safety risks to the patients.

It is signed by the president and CEO, Angela Kreps, of KansasBio.

I am ranking member on the Senate Appropriations Subcommittee on Agriculture, Rural Development, and the Food and Drug Administration, so I am keenly interested in the committee structure in this issue.

In addition, the University of Kansas in my State, in addition to having the top-ranked basketball team in the country, has the top-ranked pharmaceutical school in the country. They are a part of KansasBio and concerned about the Dorgan amendment in place. That is why they support things like the Lautenberg amendment which assure two things: that you have safety and that any value in this proposal is passed along to the consumer.

The FDA has been tasked with the responsibility of safeguarding this country's prescription drug supply and has executed that responsibility, I believe, quite well. It would be unwise for this body, then, to not value their opinions in regard to this matter. The Lautenberg amendment counts on the FDA expertise and proven track record and permits legal importation of prescription drugs into the United States only if Secretary of Health and Human Services, Secretary Sebelius in this administration, as head of the FDA, can certify to Congress that prescription drug importation will do two things: No. 1, pose no additional risk to the public health and safety; and, No. 2, result in a significant reduction in the cost of covered products to the American consumer. The safety and cost savings certification amendment would restore this language.

The Lautenberg amendment does that. This Congress must require a safety and cost savings certification from the Secretary of HHS before opening the floodgates of drug importation. Requiring this certification is the responsible way to ensure that American citizens will be protected from potentially life-threatening counterfeit, contaminated, or diluted prescription drugs.

As I mentioned, the Senate has voted on this previously four times, each time overwhelmingly adopting something like the Lautenberg amendment. As many of my colleagues may remember, the safety and cost savings certification was first signed into law when the Senate passed the Medicine Equity and Drug Safety Act of 2000. During that debate, concerns were raised by many in this body that drug importation would expose Americans to counterfeit and polluted prescription drugs. To alleviate these well-documented fears, the Senate passed this second-degree amendment then unanimously.

To date, as noted earlier, no HHS Secretary has been able to certify that drug importation will not pose a significant health and safety threat. For those reasons, I support the Lautenberg amendment.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I think we have some time available. I wish to continue with some remarks. I thank the Senator from Kansas for his remarks and his concern also about the efficacy and the safety of drugs that might reach our citizens.

I listened carefully to the remarks of my colleague from North Dakota. He said the principal focus of our amendment is to protect the profits of the drug companies. No, I want to protect the health and well-being of American citizens. I look at an industry that has prolonged life expectancy, has made life more productive and pleasant for many whose disabilities may have them imprisoned in their homes.

We look at what has happened over the years, where treatment for conditions such as malaria, polio, smallpox were discovered, and antibiotics and chemotherapy have continued to be developed, primarily by American drug companies. Those are the companies that have the reputation for bringing the best products to market, the most carefully scrutinized, and most effective. What I want is for those companies to continue to be developing drugs that will extend wellness and will continue to improve longevity. I want these products to be available more reasonably, more cheaply—more affordably.

I had an experience in my life—people have heard me talk about this at times—whereby my father got cancer, was disabled with cancer when he was 42 years old. Our family was virtually bankrupt as a result of the cost for drugs and hospital services and physicians, so I know how costly they are. My father had cancer then, and I have seen what has happened now, with the opportunities for some optimism in situations where cancer develops. We are looking to make these drugs more available, more affordable.

The thing that strikes me, as we review where we are in the development of a new health plan or a reform of the existing health programs, and I hear the criticism coming from people who have indicated they do not support more available health products, I think about what happens when votes come about that move the health care bill along. There is absolute obstinacy that prevails with many of our friends on the Republican side.

I look at what good, proper products can do and the hope we have for childhood diseases that are so painful to see. We look for improvements in those—whether it is autism or diabetes or other conditions. We want desperately for companies in this country of ours to continue to develop drugs to treat them—or companies anywhere. But when they come to this country we have to know they are safe because there is nothing that can excuse the sacrifice of safety, for whatever discounts you might get on the product, products that, as has been noted, can kill you if they are the wrong formula or contaminated product.

Our differences between the Dorgan and Lautenberg amendments boil down to one word: safety. Knowing that when you open the bottle, that when you take the liquid, you are not doing something or your children or your loved ones are not doing something that harms their health. We owe them that feeling of security and comfort as they try to cure themselves from sickness or disease. That is what we are looking at here. I hope my colleagues will stand up and say no, don't let these products come in without the tightest scrutiny that can be developed; without the most secure process of production and shipment that can be exercised.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask how many minutes I have remaining.

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. BAUCUS. I yield 5 minutes to my good friend from Iowa who I think is

going to be speaking against my position but he is a good fellow so I think he should have 5 minutes.

Mr. GRASSLEY. This is typical of the comity of the Senate. I thank my good friend for doing that. I have a little different view on some of the things he said about taxes here. I respect him giving me some time because we don't have time on this side. It is nice, his doing that.

Republicans and Democrats are working off of the same data provided by the Joint Committee on Taxation. For some reason my friends on the other side of the aisle seem to want to read this data selectively, so I wish to look at this data. I want to stress this data is from the nonpartisan Joint Committee on Taxation. They are experts. They are nonpolitical people who tell it like it is.

My friends on the other side are correct in one thing: This bill provides a tax benefit to a small group of Americans. You can see right here that this benefit is to the people here where the minus sign is in front of the numbers. These numbers are in white.

As I pointed out previously, when you see a negative number on this chart, the Joint Committee on Taxation is telling us these people are receiving a tax benefit. This income category—the income categories where you see these negative numbers begin at zero and stretch to $50,000 for individuals and $75,000 for families. That will be $50,000 to $75,000. I give my Democratic friends credit for being right on this part of the data. But I want to show you where I disagree with them and their choosing to overlook other parts of the data, the data I will soon refer to here on this chart.

When we see negative numbers on this chart, as I have said, the Joint Committee on Taxation is telling us that there is a tax benefit. So, conversely, where there are positive numbers—this will be an example of positive numbers—the Joint Committee on Taxation is telling us these taxpayers are seeing a tax increase. Those numbers I have already pointed to begin at $50,000 for an individual and go up to $200,000 for an individual.

When we see a positive number, then, it is the reverse. The Joint Committee on Taxation is telling us these taxpayers are in fact seeing tax increases. So if we see positive numbers for individuals making more than $50,000 and we see positive numbers for families making more than $75,000, it is just this simple: We know these people's taxes are going to go up.

The Joint Committee on Taxation is telling us that taxes for these individuals, once again, for a third time, will go up under this 2,074-page Reid bill.

These individuals and families are making less than $200,000. What is significant about less than $200,000 is that this violates what the President promised in his campaign, that individuals who are middle class, under $200,000, are not going to see one dime of tax increase.

To come to any different conclusion is saying that the data on this chart—and of course the professionals at the Joint Committee on Taxation—both are wrong. To come to any different conclusion is saying the chart produced by the Joint Committee on Taxation is wrong.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. How much time remains?

The PRESIDING OFFICER. There is 11 minutes.

Mr. BAUCUS. On this side? Does anyone have remaining time?

The PRESIDING OFFICER. The Senator from Idaho has 3 minutes. The Republican leader has 3½ minutes. The Senator from North Dakota has 7½ minutes. The Senator from New Jersey has 1 minute.

Mr. BAUCUS. Mr. President, I yield myself 5 minutes.

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

Mr. BAUCUS. I would like to make it clear, essentially this legislation does several things. This is the core part of this legislation. What is it? First, this legislation very significantly reforms the health insurance industry, especially for people who individually buy insurance and also for people who buy for a small company and even buy insurance for a large company. It is insurance market reform. It stops insurance companies from, frankly, undertaking practices which are un-American; that is, denying people coverage based on preexisting conditions, denying them health insurance because they have some kind of preexisting something—that is ridiculous—or saying: You can't have health insurance because you have some other health care status or saying: Sure, we will give you a policy, then a month, 2 months later, rescind it willy-nilly or putting in restrictive limits on what the company will pay during your lifetime or what the company might pay in health insurance benefits for a year.

In addition, this legislation reforms what are called rating provisions that States have. States basically allow companies to charge whatever they want, if you are a little older compared to if you are younger, if you are a woman compared to a man. There are lots of different ways States allow insurance companies to charge based upon different categories. So, No. 1, insurance market reform. This legislation stops some outrageous practices that insurance companies practice today.

No. 2, this legislation begins to get control over health care costs. We have to start to get control over health care costs. This legislation does so. It also is deficit neutral. It does not cost one thin dime for us to enact this legislation. It is all paid for. It provides health insurance coverage. About 31 million Americans who currently do not have health insurance will have health insurance, if this legislation passes. I don't have to remind my colleagues of the importance of health insurance. Insurance market reform that lowers the cost of health care in this country, provides full coverage and, equally important, begins to put in place delivery system reforms. That is kind of wonkish, but it is one of the most important parts of this bill, starting to change the way we pay doctors and hospitals, pay based more on quality rather than quantity, start putting into effect different systems that sound kind of wonkish but will be important over 3, 4, 5 years. It is bundling, group homes. It is lowering the practice of hospitals that readmit too quickly after a patient is discharged.

There are so many reforms here. I strongly urge everyone to keep their eye on the ball. Insurance market reform in this legislation, lowering costs in this legislation, lowering taxes in this legislation, insurance coverage for 31 million Americans who today do not have it, and starting to put in place payment reforms which will help get this country on the right path so, after several years, we have a health care system we are all proud of, one that gets rid of all the waste we have in the country today. We pay $2.5 trillion a year in health care, about half public and half private. People who study this say we waste as much as $800 billion a year—not million, billion—in fraud, waste, dollars that don't go directly to health care. This legislation starts to get a handle on that. It stops all the waste. You get a better handle on fraud so after 2 or 3 years, we will have something we are very proud of. Let us remind ourselves, again, if we don't pass this legislation, we will rue the day we didn't because we will have to start all over again, 2 or 3 or 4 or 5 years from now, and the problem will be much worse. The cost for families is going to be much greater, the cost to American businesses much greater. Our budgets are going to be in much worse shape, Medicare and Medicaid. This legislation extends the solvency of the Medicare trust fund for another 9 years.

Remember the bottom line, remember the basics. Let's not get too caught up in the details of the weeds and get distracted by a lot of stuff that is not the core of this bill. The provisions I outlined are compelling reasons why this legislation must pass and why it would be so good for America.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. I ask unanimous consent to use the remainder of my time as well as that of the Republican leader.

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

Mr. CRAPO. Mr. President, I would like to respond to a couple of the points made about whether this bill truly does address what the American people are asking it to address. If you ask most people in America what they want out of health care reform—and

they do want reform—they will tell you they want to see control of the skyrocketing cost of health care, particularly the cost of insurance premiums. They would like to see increased access to quality medical care. It has been said a number of times by the proponents of this legislation that this bill accomplishes those objectives, but let's look at exactly what the Congressional Budget Office has told us on the core issue; namely, what is going to happen to your insurance premiums if this bill is passed.

What the Congressional Budget Office very clearly said, which is also backed by 7, 8, 9 or 10 other studies from the private sector as well as the Joint Committee on Taxation and backed by the Chief Actuary for the Center for Medicare and Medicaid Services, is that for at least 30 percent and the most vulnerable people in America, if you are looking at whether your insurance premiums are going to go up or down, they are going to go up, not down. If you are a member of the 17 percent of Americans who get your insurance in the individual market, your insurance is going to go way up. In fact, it is going to go up by as much as 10 to 13 percent in addition to what it would have gone up without the bill. If you are someone who gets your business from small groups, from a small group market, your insurance costs are going to go up from 1 to 3 percent. If you are one of the Americans who is able to get your insurance in the large group market, then you can basically expect that the bill will have no significant impact on you. There is a possibility of a slight reduction, but the potential is, it is going to have no impact at all.

What does the bill do? For 17 percent of Americans in the individual market and for 13 percent of Americans in the small group market, it clearly makes your health care premiums go up. For those who are in the remainder of the market, it basically doesn't achieve the objective of health care reform—and at what price? We often hear we need to bend down the cost curve. As I have indicated, this legislation doesn't bend down the cost curve Americans are talking about; namely, the price of their health care or their health insurance. What does it do with regard to the Federal Government? It is going to increase the cost to the Federal Government on health care by $2.5 trillion in a massive new entitlement program. So that price curve is not bent down.

Then what are we left with? Some say the deficit will go down under this bill. There is only one way the deficit can go down under this bill; that is, if you take away the budget gimmicks, massive tax increases, and massive Medicare cuts. But I will just talk about the budget gimmicks because of a lack of time. The spending side of this bill is delayed for 4 years. The taxing and cutting Medicare side of the bill is implemented on day one. So we have 10 years of tax increases to offset 6 years of spending. I think that is the way the number was reached. You have to figure out how many years to delay the spending start before you can say there was a deficit-neutral bill. The reality is, this bill doesn't deal with any of those spending curves.

The matter we will be voting on in a few minutes is my motion that would address the tax side of the bill. All it says is: Let's change the bill to comply with the President's promise; namely, that people making less than $200,000 a year or $250,000 as a couple would not pay more taxes. What we found from the Joint Tax Committee is, 73 million Americans in that category will pay more taxes. In fact, it is not 73 million Americans, it is 73 million American households who will pay more taxes and see a tax increase under this bill and not just a small one. It is massive, hundreds of billions of dollars of new taxes that will be imposed by this bill.

In response, the proponents of this bill say: But this bill is a tax cut. The only way they can say this bill is a tax cut is by looking at the subsidy that is going to be provided as a tax cut. It is called a refundable tax credit, although three-fourths of it, 73 percent to be accurate, goes to people who do not pay taxes. Yet it is called tax relief because it is administered through the Tax Code and is described as a refundable tax credit. The CBO gets this and Americans get it. The Congressional Budget Office says these aren't tax cuts. This is spending, and it is scored that way by the CBO as it analyzes the bill. The only way you can say this bill involves these kinds of tax cuts is if you say that a provision that will simply result in the payment of a check by the Federal Government to an individual who has no tax liability to assist them with their health care costs is a tax cut. Let's accept that.

Even in that case, only 7 percent of Americans qualify for that subsidy, and the rest qualify for the tax increases. To say the President's promise was that I will not cut your taxes more or I will not increase your taxes more than I will cut someone else's taxes and, by the way, I will call a direct subsidy a tax cut, is not exactly what I think the President meant. It is not what the American people thought he meant when he said Americans making less than $200,000 or $250,000 as a family would not pay more taxes under this bill.

My proposal simply says send this bill back to the Finance Committee. They can turn it around quickly, if they want to. Have them take out the provisions that violate the President's pledge on taxes.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I yield 3 minutes to the Senator from Ohio.

Mr. BROWN. Mr. President, I rise in support of the Dorgan amendment on reimportation. This is not about importing drugs from China or India or Mexico, where drug safety standards are not up to par. Although American companies have outsourced a lot of their manufacturing to those countries and found a lot of problems with the ingredients they import into American drugs, that is not the issue. That underscores the hypocrisy of U.S. drug companies in opposing the Dorgan amendment.

This is about importing drugs from countries such as Canada and Germany and Australia and New Zealand and Japan, countries with highly developed drug safety regimes. Patients in England and France and Germany and New Zealand and Canada have the same protections we do. I have been in drugstores in Canada just 2 hours from Toledo, less than that, and you see the same drug and the same dosage, the same packaging, the same company making them. In Canada, it is 35 to 55 percent lower than in the United States. One drug, the cholesterol-lowering drug Lipitor, is $33 in Canada, $53 in France, $48 in Germany, $63 in the Netherlands, $32 in Spain, $40 in the United Kingdom. Same packaging, same company, same dosage, same drug is $125 in the United States We pay more, even though, in most cases, these drugs are either manufactured in the United States or developed, in some cases, by U.S. taxpayers, developed certainly in the United States for Americans, but we pay two and three times more.

A 2009 Consumer Reports survey found that due to high drug prices, one out of six consumers failed to fill a prescription, one out of six consumers skipped doses.

Mr. President, 23 percent of consumers cut back on groceries. They choose between do I get my groceries or pay for this drug? Consumer after consumer will cut their pill in half and take one part today and one part the next day, which is not what their doctor says they should do. We know this is not good for Americans' health. We know this is not good for Americans' pocketbooks. We know this is not good for taxpayers. It is not good for small business. It is not good for big business, large American companies that are paying the freight, that are paying these costs. American consumers and taxpayers and businesses are suffering from these high costs.

Pharmaceutical companies hike up prices, rake in massive profits. They are one of the three most profitable industries in this Nation and have been for decades. The pharmaceutical industry, in 2008, recorded sales in excess of $300 billion, with a 19-percent profit margin. This is in a bad year—a bad year for most of us in this country, in 2008. In the last year alone, the brand-name prescription drug industry raised their prices by more than 9 percent.

I ask my colleagues to support the Dorgan amendment.

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 6 p.m. today, the Senate proceed to vote in relation to the amendments and motion specified in the order of December 14 regarding H.R. 3590; that prior to each vote, there be 2 minutes of debate, equally divided and controlled in the usual form; that after the first vote in the sequence, the succeeding votes be limited to 10 minutes each; further, that all provisions of the December 14 order remain in effect.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, some issues we deal with here in the Senate are unbelievably complicated. This one is not. This is painfully simple, the question of whether the American people should be charged and continue paying the highest prices in the world for brand-name prescription drugs—my amendment says no—from other countries in which there is a safe chain of custody that is identical to ours. The American people ought to have the freedom to shop for those lower priced FDA-approved drugs that are sold there at a fraction of the price.

I especially wish to thank Senator BEGICH from Alaska for his work. This is bipartisan, with a broad number of Democrats and Republicans working on this importation of prescription drugs bill, giving the American people the freedom to acquire lower priced drugs. Senator BEGICH has been a significant part of that effort. I want to say thanks to him for his work on this amendment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. BEGICH. Mr. President, if I could ask a question of the Senator from North Dakota.

I say to the Senator, I appreciate his comments, and I think he is right. Of all the complexity of this bill, this seems so simple. I know when I was mayor, we worked on this issue. It seems logical for Alaska. Since we border so much of Canada, it seems logical to do what we can in this arena.

I know the Senator stated these comments before, but I think it is important for especially my viewers who are now watching from Alaska, with the 4-hour difference. But the Senator talked about the savings. There are savings to the taxpayers that are very clear, and there are savings to the consumer, which is even more significant. Can the Senator remind me what those numbers are? I think I have them. I want to be sure, as I talk about this bill.

Mr. DORGAN. Mr. President, this amendment will save $100 billion in 10 years, nearly $20 billion for the Federal Government and nearly $80 billion for the American consumers.

Mr. BEGICH. That is what this health care bill is about, not only getting good-quality care but also finding those opportunities, as we just heard one Senator talk about, bending that cost curve—I hate that term—but it is impacting the consumers in a positive way by $80 billion.

The other thing I have heard a lot about on the floor—and the Senator talked quickly about it—is the chain of control, which I drove here for 19 days with my family through Canada, and 5 days we bought some drugs when I had a cold, but I am still here. I am standing. I am healthy. Remind me of that chain of control for these drugs and where they are produced.

Mr. DORGAN. I would say to the Senator from Alaska, these prescription drugs would be able to be reimported from Australia, New Zealand, Japan, and the European countries that have identical chains of custody to our chain of custody so that there is safety.

It is also the case that we are in politics, so the floor of the Senate is the place of a lot of tall tales. I understand that. I have been in politics for a long time.

Mr. BEGICH. Yes, I have learned that as a new Member.

Mr. DORGAN. But early on, one of my colleagues said this is about untested, unregulated drugs coming from, oh, parts of the Soviet Union. That is so unbelievable. It is not describing the amendment I have offered. We are talking about a chain of custody that is identical to the United States. When that is the case—if it is the case—why would the American people not have the freedom to acquire that same drug when it is sold at one-tenth the price, one-fifth, one-third, or one-half the price? Why not give the American people that freedom?

Mr. BEGICH. The Senator from North Dakota and I have just one last question. Even though we did not ask for a colloquy, this is kind of a colloquy, and I appreciate the back-and-forth.

This is one reason I support this bill—not only today but many months ago—for all the reasons the Senator just laid out. The control is there. The protection to the consumer is there. The savings to the consumer and the taxpayer are enormous, as we deal with these issues. If there is one thing I have heard over and over through e-mails and correspondence to my office, it is: Help us save on prescription drugs.

To emphasize that point once more, to make sure I have the numbers right, over 10 years, between the Federal Government and the consumer, it is over $100 billion.

Mr. DORGAN. Mr. President, the savings is over $100 billion. Look, I want the pharmaceutical industry to do well, to make profits, to make prescription drugs. I just want fair pricing for the American people. I do not have a beef with the industry. I want them to do well. I want them, however, to give the American people a fair price because we are paying the highest prices in the world for brand-name prescription drugs, and I think it is flat out unfair. This amendment will fix that.

There is a competing amendment that nullifies it, that simply says all this is going to go away and we are done with this bill and nothing has happened to put the brakes on prescription drug prices.

I hope my colleagues will stand with me and with the American people saying: We support fair drug prices for the American people. That is what we are going to vote on in a few minutes.

I appreciate the questions from the Senator from Alaska.

Mr. BEGICH. Thank you, Mr. President. And I thank the Senator from North Dakota for allowing me these questions and again clarifying for my residents in Alaska how important this bill is. Thank you.

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, parliamentary inquiry: The order that was just entered provided for 2 minutes, equally divided, before, I suppose, the vote on each of the amendments. Is that in addition to or is that a part of the time that has been allocated to Senators?

The PRESIDING OFFICER. In addition to.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana has 5 minutes remaining.

Mr. BAUCUS. So, Mr. President, if the Senator from Montana wishes to speak on his amendment, he has 5 minutes, plus 2 minutes.

The PRESIDING OFFICER. Five minutes plus 1 minute.

Mr. BAUCUS. Excuse me. The time is equally divided. Thank you.

Mr. President, I just want to make it as clear as I can that the Congressional Budget Office essentially says that premiums will go down for about 93 percent of Americans. I say that because I think my good friend from Idaho was leaving a different impression.

But let me just summarize what CBO says. I would put a chart that CBO provided in the RECORD, but under the Senate rules we cannot put charts in the RECORD. So I am just going to summarize what this chart says.

OK. Seventy percent of Americans will get their health insurance in what is called the large group market. That is people who work for larger employers—70 percent. CBO said for that 70 percent of Americans, premiums will go down a little bit. It will be about a 3-percent reduction in premiums.

The next group of Americans getting health insurance are in what is called the small group market. Those are people in small companies, small businesses, primarily. That is where 13 percent of Americans get their insurance. CBO says for that 13 percent, maybe the premiums will go up between 1 percent or down 2 percentage points overall. But for those folks, those small businesspeople who get tax credits—

and there are some very significant tax credits in this bill, and I think it will be even more significant when the managers' amendment is out—CBO says, even with modest tax credits, those premiums will go down 8 to 11 percent.

That is, for 13 percent of Americans who have insurance, their premiums will go down 8 to 11 percent, among those who have credits.

Let's look at what is called the nongroup market, the individual market. That is 17 percent of Americans. For those folks, if you compare their current insurance with what they will have in the future, those premiums will go down 14 to 20 percent—down 14 to 20 percent—according to CBO.

In addition, though, CBO says that persons who have tax credits—we are talking now about the individual market—those people will find, on average, their premiums will go down 56 to 59 percent. Remember, 17 percent of Americans buy insurance individually. Of that 17 percent, 10 percent, because of tax credits in this bill, will find their premiums go down 56 to 59 percent.

The 7 percent that are remaining—remember I started off by saying for 93 percent, there will be a reduction. The 7 percent remaining will find that because of better benefits, their premiums will go up 10 to 13 percent, but they will have a lot better benefits. They will have a lot higher quality insurance than they have today. Frankly, my judgment is, the higher quality insurance they have, because of this legislation, will outweigh the increase in the premiums.

But anyway, for 93 percent, premiums will go down.

AMENDMENT NO. 3183

Mr. President, let me speak a little bit on my amendment which, as I understand it, is going to be the first amendment voted on.

I remind my colleagues that the underlying legislation is a tax cut bill. It cuts taxes. It cuts taxes very significantly. Over the next 10 years, for example, this bill will provide Americans with a $441 billion tax cut to buy health insurance—$441 billion in tax credits to buy health insurance. Credits are tax reductions.

In the year 2017, taxpayers who earn between $20,000 and $30,000 a year will see an average tax cut of nearly 37 percent. These are people who have a hard time making ends meet. People who earn between $20,000 and $30,000 will see an average tax cut of 37 percent. That is according to the Joint Committee on Taxation.

In addition, 2 years later, the average taxpayer making less than $75,000 a year will receive a tax credit of $1,500. Just to repeat, the average taxpayer making less than $75,000 a year will receive a tax reduction—a tax credit—of more than $1,500.

The Crapo motion to commit is really an attempt to kill health care reform. It is, thus, a plan to keep Americans from getting these tax cuts. I think we want Americans to get these tax cuts. If the Crapo motion is successful, Americans will not get any of these tax cuts. We want them to. The underlying bill gives Americans these tax cuts. Therefore, I think we should reject this procedural maneuver designed to kill the tax cuts in this health care bill.

That is what my side-by-side amendment says—that is going to be the first amendment voted on—and that is, let's vote to keep our current tax cuts. I urge a positive vote on my amendment and a ''no'' vote on the Crapo motion, which eliminates the tax cuts, which is not what I think most Americans want. So I urge my colleagues to vote for the side-by-side amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote on the Baucus amendment.

Who yields time?

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, the legislation that we are discussing today, the Patient Protection and Affordable Care Act, could have a profound impact on the United States for decades to come. I am especially concerned about the tax implications of the legislation. We need to take a thorough look at these tax provisions before approving this legislation.

It is plain to see that if you have insurance, you get taxed; if you don't have insurance, you get taxed; if you need prescription drugs, you get taxed; if you need a medical device, you get taxed; if you have high out-of-pocket health expenses, you get taxed. Everyone gets taxed under this proposal.

This legislation also changes the core principle of Social Security and Medicare financing, a model called ''social insurance.'' Since Social Security was created in the 1930s and the Medicare Program in 1965, payroll tax revenues have been dedicated to financing these programs. In current tax law, all funding from the Medicare payroll tax finances the Medicare Program. This legislation proposes to increase the hospital insurance portion of the payroll tax on wages from 1.45 percent to 1.95 percent and uses the revenues to fund programs outside of Medicare. If this proposal becomes law, future Congresses will have the ability to take payroll tax revenues and use them for highways or defense or other nonsocial insurance spending. This will be a serious precedent, a long-term game-changer in how we finance our government, and I do not think it is wise to do this today.

Additionally, individuals who fail to maintain government-approved health insurance coverage would be subject to a penalty of up to $2,250 in 2016. This individual mandate tax is regressive and will largely be strapped on the backs of those who can least afford such a penalty.

Analysis by the Joint Committee on Taxation reveals that while a relatively small group of middle-class individuals, families, and single parents may benefit under this bill, a much larger group of middle-class individuals, families and single parents will be disadvantaged. According to the analysis by the Joint Committee on Tax, this legislation increases taxes by a 3 to 1 ratio on people making less than $200,000 a year, in other words for every one individual or family that gets the tax credit, three middle-income individuals and families are taxed. Roughly 42 million individuals and families, or 25 percent of all tax returns under $200,000 will, on average, pay higher taxes under this bill, even with the tax credits factored in.

There are only about 17,000 Mississippi tax filers who earn more than $200,000, so we are looking at over 2.5 million people who earn less than $200,000 and could easily be forced to pay higher taxes. This legislation will affect a large majority of our tax base.

Tax spending as proposed in the legislation before us provides credits for health insurance to individuals and families between 100 percent and 400 percent of the Federal poverty level, FPL. For example, a family at 100 percent of the Federal poverty level can pay no more than 2 percent of their income on premiums, and the government would pick up the rest of the cost. Although this furthers the goal of trying to get everyone insured, only 7 percent of Americans will be eligible for a tax credit and 91 percent of Americans will experience an increase in taxes. This hardly seems like a solution.

The health care industry, including many small businesses in my state, would be subject to fees imposed by this legislation. Health insurance companies that administer a self-insured policy on behalf of employers would be subject to fees imposed on the industry. This $6.7 billion annual fee will undoubtedly be passed on to consumers.

This legislation imposes a nondeductible $2.3 billion fee on manufacturers of prescription drugs, which is an example of yet another fee that will be passed on to consumers.

Medical device manufacturers will be on the hook for $2 billion in annual fees. Again, this will be passed on to consumers.

Of additional concern is the ''free-rider'' penalty for employers with more than 50 employees that do not offer health insurance coverage. These employers would be required to pay a fee for each employee. Businesses that pay any amount greater than $600 to corporate providers of services would have to file an information report with the IRS, adding further regulatory burdens on business and on an agency that does not traditionally deal in health care.

According to a recent study, taxes in this proposal will place approximately 5.2 million low-income workers at risk of losing their jobs or having their hours reduced. An additional 10.2 million workers could see lower wages and

reduced benefits. Why would we want to put people at risk of losing their jobs? A small business owner in my State told me that 8 percent of his income goes to pay for health insurance for his employees. If this amount is increased, he will be forced to reduce the size of his staff. Why would we want to hurt small businesses at a time like this?

We all remember President Obama's campaign promise that he would not raise taxes on families earning less than $250,000 a year. The Joint Committee on Taxation conducted an analysis that shows that in 2019—when the bill is in full effect—on average individuals making over $50,000 and families making over $75,000 would have seen their taxes go up under this legislation. In other words, 42 million individuals and families earning less than $200,000 would pay higher taxes.

Arguably millions more middle-class families and individuals could be hit with a tax increase from the health care industry ''fees'' or taxes proposed. According to testimony of the Congressional Budget Office before the Senate Finance Committee, these fees would be passed through to health care consumers and would increase health insurance premiums and prices for health care-related products. If the President signs this legislation in its current form, he would break his pledge not to raise taxes on people making less than $250,000 a year.

My distinguished friend from Idaho, Senator CRAPO, offered an amendment in the Senate Finance Committee markup providing that ''no tax, fee or penalty imposed by this legislation shall be applied to any individual earning less than $200,000 per year or any couple earning less than $250,000 per year.'' The amendment was rejected.

Small businesses in my State do not support this legislation. With unemployment at a 26-year high and small business owners struggling to simply keep their doors open, this kind of reform is not what we need to encourage small businesses to thrive. Small businesses need reform that will lower insurance costs. They need a bill that will decrease the overall cost of doing business. If a bill increases the cost of doing business or fails to reduce costs, then the bill fails to meet its intended goal of reigning in health care costs.

I would submit that the bill fails to lower national health expenditures; it fails to lower the amount of money the federal government spends on health care; and it does not bend the cost curve of rapidly increasing national health care costs. If we were running a large company, this would be an unsuccessful business proposal.

In Mississippi, we could insure a majority of the uninsured if we enrolled all eligible children in the State Children's Health Insurance Program: If more small businesses offered health insurance, and if people who could afford health insurance purchased health insurance, this would be reform.

Mr. President, I would like to see our Nation's health system reformed, but these reforms cannot be on the backs of individuals and businesses that we need to succeed. Reform should not add to the already high costs of doing business.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I will just take 1 minute on this, and then I think we will probably be ready to vote.

Again, I think there are two contrasting amendments here. The Senator from Montana has indicated that my motion, which would simply ask the Finance Committee to make this bill comply with the President's pledge, would somehow kill the bill—that is not at all true—and, secondly, that it would stop the tax relief in the bill that the Senator from Montana has identified, the refundable tax credits. The bottom line is, my amendment does not even address the refundable tax credits. They remain in the bill.

All my amendment does is say: Let's have the President's pledge to the American people honored in this legislation. Let's take out the taxes that 73 million American households will pay under this legislation—hundreds of billions of dollars of new taxes.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator's time has expired.

The Senator from Montana.

Mr. BAUCUS. Madam President, essentially, the Crapo motion to commit the underlying bill, the pending bill, is to the Finance Committee to take out all the tax cuts. That is what it is, so I oppose it.

I urge Senators to vote for my amendment, which is a sense of the Senate that the Senate should reject such procedural motions, basically, because we want to keep the tax cuts that are in this bill.

Madam President, I 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 amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Indiana (Mr. LUGAR).

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

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 375 Leg.]

YEAS—97

Akaka	Begich	Boxer
Alexander	Bennet	Brown
Barrasso	Bennett	Brownback
Baucus	Bingaman	Bunning
Bayh	Bond	Burr
Burris	Hatch	Nelson (FL)
Cantwell	Hutchison	Pryor
Cardin	Inhofe	Reed
Carper	Inouye	Reid
Casey	Isakson	Risch
Chambliss	Johanns	Roberts
Coburn	Johnson	Rockefeller
Cochran	Kaufman	Sanders
Collins	Kerry	Schumer
Conrad	Kirk	Sessions
Corker	Klobuchar	Shaheen
Cornyn	Kohl	Shelby
Crapo	Kyl	Snowe
DeMint	Landrieu	Specter
Dodd	Lautenberg	Stabenow
Dorgan	Leahy	Tester
Durbin	LeMieux	Thune
Ensign	Levin	Udall (CO)
Enzi	Lieberman	Udall (NM)
Feingold	Lincoln	Vitter
Feinstein	McCain	Voinovich
Franken	McCaskill	Warner
Gillibrand	McConnell	Webb
Graham	Menendez	Whitehouse
Grassley	Merkley	Wicker
Gregg	Mikulski	Wyden
Hagan	Murkowski	
Harkin	Murray	

NAYS—1

Nelson (NE)

NOT VOTING—2

Byrd Lugar

The PRESIDING OFFICER. On this vote, the yeas are 97, the nays are 1.

Under the previous order, requiring 60 votes for the adoption of the amendment, amendment No. 3183 is agreed to.

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

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table.

MOTION TO COMMIT

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to the Crapo motion to commit.

Mr. CRAPO. Madam President, this is a very simple vote we are going to have. This is a vote that will correct the bill to comply with the President's promise not to tax anyone who makes under $200,000 as an individual or $250,000 as a family.

I think the vote we just had was a unanimous vote for it. It said not to take tax relief out of the bill. We have had plenty of debate about tax relief—whether it is in the bill or not in the bill. This motion says let's fix the bill and take out the hundreds of billions of dollars of taxes that will fall squarely on the middle class.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, the Crapo motion to commit is an attempt to kill health care reform. If it succeeds, we will keep 31 million Americans from getting health care coverage. If it succeeds, it will keep Americans from getting the tax cuts in the bill. If the motion succeeds, over the next 10 years, Americans will get $441 billion less in tax credits to buy health insurance.

I urge that we not vote in favor of the Crapo motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 45, nays 54, as follows:

[Rollcall Vote No. 376 Leg.]

YEAS—45

Alexander	Crapo	Lincoln
Barrasso	DeMint	Lugar
Bayh	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Graham	Murkowski
Brownback	Grassley	Nelson (NE)
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Cantwell	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Klobuchar	Vitter
Corker	Kyl	Voinovich
Cornyn	LeMieux	Wicker

NAYS—54

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

NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 54. Under the previous order requiring 60 votes for the adoption of this motion, the motion is withdrawn.

AMENDMENT NO. 2793, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relationship to amendment No. 2793, as modified, offered by the Senator from North Dakota, Mr. DORGAN.

The Senator from North Dakota.

Mr. DORGAN. Madam President, this amendment is about fair pricing for prescription drugs for the American people. A colleague of mine just came up to me and said: My daughter takes Nexium. It costs her $1,000 a month. I said: I happen to have a chart about Nexium here. This illustrates better than I know how to illustrate the difference in pricing.

Here is what Nexium costs: $424 worth of Nexium in the United States is sold for $40 in Great Britain, $36 in Spain, $37 in Germany, $67 in France. If you like this kind of pricing where the American people pay the highest prices in the world for prescription drugs, if you like this kind of pricing, then you ought to vote against this amendment. But this amendment is bipartisan—Republicans and Democrats. Over 30 Members of this Senate have supported this approach, saying let's provide fair pricing for a change for the American people.

We should not be paying the highest prices in the world for prescription drugs. All I ask is that you support this amendment to give the American people the opportunity for fair pricing for a change.

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

The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I rise to oppose the Dorgan amendment. Let's be clear, there are those who want to deminimize safety. But the one entity in this country that is responsible for the food and drugs is the FDA, and Commissioner Hamburg has mentioned in her letter all of the potential risks of the Dorgan amendment.

Secondly, we have heard about the European Union as an example why we should permit reimportation. What did we hear from the European Community last week? In 2 months, they seized 34 million fake tablets at customs points in all member countries, and this was beyond their greatest fears.

Thirdly, how do we create affordability? By closing the doughnut hole. And this amendment will not do that, it will undermine that.

And finally, Senator LAUTENBERG's amendment, which comes up after this amendment, is the one that permits reimportation but takes care of the safety issues that the FDA has said are critical.

We want to make sure when you buy Nexium that what you get is the substance and the quality and the quantity that you want, not something less that can undermine your health care. Vote against the Dorgan amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

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

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), is necessarily absent.

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

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 377 Leg.]

YEAS—51

Alexander	Corker	Harkin
Begich	Cornyn	Hutchison
Bennet	Crapo	Johanns
Bingaman	DeMint	Johnson
Bond	Dorgan	Klobuchar
Boxer	Feingold	Kohl
Brown	Feinstein	Leahy
Coburn	Franken	LeMieux
Collins	Graham	Lincoln
Conrad	Grassley	McCain
McCaskill	Risch	Stabenow
McConnell	Sanders	Thune
Merkley	Sessions	Udall (NM)
Murkowski	Shaheen	Vitter
Nelson (NE)	Shelby	Webb
Nelson (FL)	Snowe	Wicker
Pryor	Specter	Wyden

NAYS—48

Akaka	Durbin	Levin
Barrasso	Ensign	Lieberman
Baucus	Enzi	Lugar
Bayh	Gillibrand	Menendez
Bennett	Gregg	Mikulski
Brownback	Hagan	Murray
Bunning	Hatch	Reed
Burr	Inhofe	Reid
Burris	Inouye	Roberts
Cantwell	Isakson	Rockefeller
Cardin	Kaufman	Schumer
Carper	Kerry	Tester
Casey	Kirk	Udall (CO)
Chambliss	Kyl	Voinovich
Cochran	Landrieu	Warner
Dodd	Lautenberg	Whitehouse

NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 48. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

AMENDMENT NO. 3156

Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 3156, offered by the Senator from New Jersey, Mr. LAUTENBERG.

Mr. LAUTENBERG. Madam President, this is a simple solution to a complicated problem. My amendment contains the Dorgan amendment. The work done by our friend from North Dakota is significant. But what it did not have is a guarantee, as much as possible, that the product was safe; that there were no counterfeits, that there were no mixtures of things that might not work well with other drugs.

My amendment adds a simple requirement that imported drugs be certified as safe by the Health and Human Services Secretary. I hope we will be able to pass this, which will include the Dorgan amendment, to make sure the products that get here are safe, no matter what the price will be. If it is not safe, it is worthless. We want to be sure every product that reaches our shore is safe to take and will be sold at a more reasonable cost.

Mr. BAUCUS. Madam President, I have long supported measures that allow Montanans to buy safe and effective drugs from foreign countries. This is why I support the Lautenberg amendment.

Currently, the Food and Drug Administration is required to review the safety and effectiveness of domestically produced drugs. FDA is also required to ensure the safety and effectiveness of legally imported drugs. Through FDA's robust inspection and other regulatory compliance activities, consumers can have a high degree of confidence in the quality of the drugs.

The Lautenberg amendment allows importation of drugs manufactured outside the United States and includes

numerous protective measures in addition to these activities. These measures address the health and safety risks of importing foreign drugs.

Most importantly, it requires the Secretary of Health and Human Services to certify that the imported drugs do not pose any additional risk to the public's health and safety and create savings for American consumers.

With recent increased awareness of potentially dangerous food and drug products, it is more important than ever to protect American consumers.

This amendment ensures that consumers are protected from the risk of unsafe drugs. And it ensures Americans have access to consistent, reliable medicines.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time in opposition?

The Senator from North Dakota?

Mr. DORGAN. Madam President, we have all seen this movie before. We have had these votes before. All I say is this: The pharmaceutical industry flexes its muscles and defeats an attempt for fair prescription drug prices for the American people so we can keep paying the highest prices in the world. And then there is another amendment offered that makes it seem like something is being done when, in fact, nothing is going to be done, nothing will change.

Do not vote for this amendment and go home and say you have done something about the price of prescription drugs because your constituents will know better. This amendment does nothing. If you believe, at the end of the evening, we should do nothing, by all means vote for it. Don't count me in on that vote.

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

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 West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 378 Leg.]

YEAS—56

Akaka	Casey	Kaufman
Alexander	Chambliss	Kerry
Barrasso	Cochran	Kirk
Baucus	Cornyn	Landrieu
Bayh	Crapo	Lautenberg
Bennett	Dodd	LeMieux
Bond	Durbin	Lieberman
Boxer	Ensign	Lincoln
Brownback	Enzi	Lugar
Bunning	Gillibrand	Menendez
Burr	Hagan	Mikulski
Burris	Hutchison	Murkowski
Cantwell	Inhofe	Murray
Cardin	Isakson	Nelson (NE)
Carper	Johnson	Reed
Reid	Schumer	Udall (CO)
Risch	Shelby	Voinovich
Roberts	Specter	Warner
Rockefeller	Tester	

NAYS—43

Begich	Gregg	Pryor
Bennet	Harkin	Sanders
Bingaman	Hatch	Sessions
Brown	Inouye	Shaheen
Coburn	Johanns	Snowe
Collins	Klobuchar	Stabenow
Conrad	Kohl	Thune
Corker	Kyl	Udall (NM)
DeMint	Leahy	Vitter
Dorgan	Levin	Webb
Feingold	McCain	Whitehouse
Feinstein	McCaskill	Wicker
Franken	McConnell	Wyden
Graham	Merkley	
Grassley	Nelson (FL)	

NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote the yeas are 56, the nays are 43. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

The Senator from Texas.

MOTION TO COMMIT

Mrs. HUTCHISON. Mr. President I have a motion at the desk, and I ask that it be brought forward.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] moves to commit the bill H.R. 3590 to the Committee on Finance with instructions to report the same back to the Senate with changes to align the effective dates of all taxes, fees, and tax increases levied by such bill so that no such tax, fee, or increase take effect until such time as the major insurance coverage provisions of the bill, including the insurance exchanges, have begun. The Committee is further instructed to maintain the deficit neutrality of the bill over the 10-year budget window.

Mrs. HUTCHISON. Mr. President, this is a motion that Senator THUNE and I are putting forward. It is a very simple motion. A lot of people don't realize that the taxes in the bill we are discussing actually start in about 3 weeks. They start in January of 2010. The effect of the bill, whatever the proposals are going to be in the bill, whatever programs are available, will not come into play until 2014. The taxes will start this next year, and they will be paid for 4 years before any of the programs the bill is supposed to put forward will be there. The motion Senator THUNE and I put forward merely says that taxes start being collected when the bill is implemented. So whatever programs are being offered to the people, whatever insurance programs, whatever kinds of benefits there might be in the bill would start at the same time as the taxes start. So you are not going to be paying taxes before you have any options that you would be able to take in this bill.

It is simple. It is clear. We believe that if you pay taxes for 4 years before you see any of the programs in this bill, the American people can't be sure there will ever be a program, because there will be intervening Congresses and intervening Presidential elections that will occur before this bill is designed to start in 2014. We have congressional elections in 2010. We have a Presidential election plus congressional elections in 2012. And 2 years following that, 2014, is when this bill will be implemented.

I hope everyone will look at this motion and support the amendment we are putting forward. It is a motion to commit the bill to fix this issue, that America should not be looking at higher drug prices, higher medical device prices, and higher costs of insurance, all of which are the first taxes that will take effect.

Let's walk through it. Starting next year in January, 3 weeks from today, there will be $22 billion in taxes on prescription drug manufacturers that will start. The price of prescription drugs, aspirin, anything that people take will go up because the drug manufacturers are going to start paying a tax. There is $19 billion in taxes on medical device manufacturers. So medical devices we use, hearing aids, things we use to treat ailments will be taxed to the tune of $19 billion next January. There is $60 billion on insurance companies starting next month. That is about $100 billion in taxes that start in about 3 weeks. So the insurance companies have probably already priced in the negotiations that they are having now with people about their insurance premiums. I am sure they realize that they are going to have to be locked in for a year or two or three and, therefore, these rises in insurance premiums are probably part of this bill we are dealing with right now. And $60 billion will be passed on to every person who has health care coverage right now.

Here we are, health care reform that is supposed to bring down the price of health care so that more people can afford it. And what is the first thing we do? It is not to offer a plan. It is not to offer any kind of program that would help people who are struggling right now because they don't have insurance. It is certainly not going to help people struggling to pay their prescription drug prices. We are going to raise the price by taxing the manufacturers of drugs, of medical devices, and the companies that are giving insurance today.

It is time that we talk about the high taxes in this bill. What we are going to talk about in the Hutchison-Thune proposal, the motion to commit, is to say at the very least, the least we can do is not ask people to pay taxes for 4 years when you are going to have three intervening congressional elections before this bill takes effect. Things could change mightily. All these taxes that are going to go into place might never bring forward the proposals that are in the underlying bill.

In 2013, 1 year before the bill is to take effect, the taxes on high benefit plans go into effect. What is a high benefit plan? A high benefit plan is one that is a good plan. Many unions have these, and many people who work for

big corporations have everything paid for. They have all of the employer regular, in the order that most companies do, payments, but they also allow in these plans to have most of the deductibles also paid for. They are very good plans. This bill will excise for those plans $149 billion, cut it right out and have an excise tax on those good plans, $149 billion. That starts in 2013. That is 1 year before the bill takes effect.

In 2013, 1 year before there is any new plan put forward, those who have very good coverage—whether it be someone who works for a big company or whether it is a union member—will start getting a 40-percent tax on that benefit. So all of the things that have been negotiated are going to have a big 40-percent tax. That starts in 2013.

In addition, in 2013, 1 year before the bill takes effect, there is a limitation put on itemized deductions for medical expenses. Today, if you spend more than 7.5 percent of your income on medical expenses, you get to deduct everything over that. So if you have a catastrophic accident or you have a very expensive disease to treat or you are in a clinical trial—something that is expensive—if you go above 7.5 percent of your income, you can deduct that. In 2013, under the bill that is before us, you would have to spend 10 percent of your income before you could deduct those expenses. That is another $15 billion that will be collected in taxes that are not collected today.

The new Medicare payroll tax, which impacts individuals who earn over $200,000 or couples who earn $125,000 each, would take effect in 2013. That is $54 billion in taxes.

These are all the taxes that take effect before the bill does, before there is any plan offered. You would have the tax that starts next month on insurance companies, pharmaceutical companies, and medical device companies. Then, in 2013, you would have a tax on high-benefit plans, a 40-percent tax on that plan. Then, in 2013, the itemized deductions will not be allowed until you have paid 10 percent of your salary in medical expenses. Then there is the Medicare payroll tax, which is going to impact individuals. All of this is before there is a program in place.

In 2014, when the bill does come forward so there are plans to be offered to people, then you start the mandates on employers and the taxes if people are not covered. So you have $28 billion in taxes on employers that start in 2014. These are the employers who cannot afford to give health care to their employees or they do not give the right kind of health care to their employees, so it is not the right percentage, and if it is not the right percentage, then the employer pays a fee of $750 to $3,000 per employee. That is their fine.

Then there is the tax on individuals who do not have health insurance, and that is $750 per adult.

My colleague from South Dakota and I will certainly want to spend more time talking about this and hope very much that our colleagues will also. I do not think this is what the American people thought they would be getting in health care reform. Of course, what we would hope the American people would get in health care reform would be lower cost options that do not require a big government plan. They would not require big taxes. They would not require big fees. If we had a lowering of the cost, by allowing small businesses to have bigger risk pools, that would not cost anything. It would allow bigger risk pools that would provide lower premiums and employers would be able to offer more to their employees.

Most employers want to offer health care to their employees. It is just a matter of the expense. The bill we are debating now is going to put more expenses and burdens on employers, at the time when we are asking them to hire more people to get us out of this recession.

Everywhere I go in Texas, when I am on an airplane, when I am in a store, a grocery store—I have not been able to do any Christmas shopping, I must admit, so I have not been in a department store, but nevertheless I do go to the grocery store—everyone who I am talking to is saying: I can't afford this. What are you all doing? And I am saying, of course: Well, we are trying to stop this because we agree with you that small businesspeople cannot afford this.

I was a small businessperson. I know how hard it is because we do not have the margins of big business, and it is very hard to make ends meet when you have all the mandates and the taxes, and when you are trying to increase your business and hire people, which is what we want them to do. You cannot do it if you are burdened with more and more expenses, as this bill will do.

What Senator THUNE and I are doing is making a motion to commit this bill back with instructions, to come back with the changes that will assure that when the implementation of this bill starts, that will trigger whatever programs are in the bill at the same time as whatever taxes and fees are going to be in this bill.

I would hope there would be fewer taxes and fees. But whatever your view is on that issue, it is a matter of simple fairness that you would not start the taxes before you start the implementation of the program. It would be like saying: I want to buy a house, and the realtor says: Well, fine, you can start paying for the house right now, and in 4 years you will be able to move in. The house might be stricken by lightning. It might fall apart. It might blow up. It might have a fire. And that is exactly what could happen in this bill.

This bill may not make it for 4 years, when people see what is in it. There will be elections, and I cannot imagine we would establish a policy of taxing people for 4 years, raising costs, leading down this path that will eventually go to a public plan that will end up doing what was originally introduced in the bill; and that is, to end up with one public plan. It will take a little longer the way the bill is being reconfigured, but it is going to end up in the same place, unless we can stop it by showing people that the mandates and the taxes are not good for our economy and they are not good for the health care system we know in this country.

We have choices in this country. We have the ability to decide who our doctor is and what insurance coverage we want, whether we want a high deductible or a low deductible. That is not a choice that should be taxed. We should not have someone tell us what procedures we can have. We should have the option of deciding that for ourselves with our doctors. That is what we want in health care reform. But that is not what is in the bill before us.

I hope we can discuss the Hutchison-Thune motion to commit. We are going to work to try to make sure everyone knows we want fairness in this bill and that people know what is in it. I hope we will get whatever the new version of the bill is very soon so we will have a chance to see if maybe there are some changes that are being made. But in the bill before us, the taxes start next month, and the bill is implemented in 2014. On its face, that is fundamentally unfair. I hope our motion is adopted so we can change it.

Mr. President, I yield the floor.

Mr. KOHL. Mr. President, today I would like to talk about health care costs. We began this endeavor to fix our broken health care system a year ago for two reasons: to move toward universal coverage, and to reduce the unacceptably high cost of health care that is threatening to ruin our country.

It is vital that in our quest to cut costs, we do not leave money on the table that could be going back into the pockets of the American people. This process is not over and while we still have time, we need to more strongly address the rising costs of prescription drugs. The cost of brand-name drugs rose nine percent last year. That is an unprecedented, unacceptable hike. In contrast, the cost of generic drugs fell by nearly nine percent over the same time period.

For years, we have tried to make it easier for Americans to have access to affordable drugs. We have worked to ease the backlog of generic drug applications at the FDA. We support comparative effectiveness studies and academic detailing to diminish the influence of brand-name drug manufacturers. And we must continue to break down the barriers to help generic drug companies get their products on the market.

Therefore it is imperative that we pass legislation to fight the backroom deals between brand name drug companies and generic drug companies that keep generics off the market and out of reach for consumers. The Kohl-Grassley amendment to stop what we call

these ''reverse payments'' is based on a bill that was passed with bipartisan support by the Judiciary Committee last month, and I thank Senator GRASSLEY for working together with me on it.

Let me be clear about what these deals are: brandname drug companies pay generic drug companies—their competition to not sell their products. The brandname drug companies win because they get rid of the competition. Generic drug companies win because they get paid without having to manufacture a product. And consumers lose because they have been robbed of a competitive marketplace.

How much do American consumers lose in these backroom deals? Thirty-five billion dollars over 10 years, according to the Federal Trade Commission. And the Congressional Budget Office estimates these anticompetitive deals cost the Federal Government nearly $2 billion on top of that, because we end up paying more for branded drugs through Medicare and Medicaid. We cannot afford to leave this money on the table, and our bill—which we hope will be included in the final health reform legislation—will make sure we do not.

We are pleased that the current bill includes a provision that Senator GRASSLEY and I hope will slow the rising cost of drugs and medical devices. Our policy aims to make transparent the influence that industry gifts and payments to doctors may have on medical care. As we look to reform the health system, it is imperative that every dollar is spent wisely.

In closing, I urge my colleagues to support my amendment to end these collusive drug company settlements and to find additional ways to reduce the cost of this bill. This proposal would save billions of dollars and reduce consumer costs by billions more. This is what we said we would do, and this is what we must do.

Mr. JOHNSON. Mr. President, I rise today to recognize that the rising health care costs plaguing our health care system are disproportionately harming small business in South Dakota and across the Nation. Over the last decade, health care costs have been rising four times faster than wages, eating into the profits of small businesses and the pocketbooks of families. Many small businesses avoid hiring new employees because the cost of providing benefits is too great, and in some cases are forced to lay off employees or drop health care coverage entirely.

A small business owner in northeastern South Dakota shared with me the impact of rising health care costs on his business. He cited a strong conviction and moral obligation to provide his employees and their families with benefits, including quality, affordable health insurance. Despite his best intentions, rising health care costs are threatening his ability to maintain those benefits.

As the employees of this small business aged and used more of their health benefits, the insurance company steadily raised rates 10 to 20 percent each year. When the rates were affordable the small business owner paid the full cost of premiums, but has since been forced to shift more and more of the costs onto his employees. If rates continue to rise, he is worried he will no longer be able to afford to offer any coverage.

And he has concrete cause for concern. Current trends paint a bleak picture of future health care costs for all Americans, but they have particular implications for small businesses. In 2000, employer-sponsored health insurance in the large group market for a family in South Dakota cost on average $6,760. In 2006, the same family health insurance plan cost $9,875. That is a 72-percent increase in 6 years and, unless action is taken to alter this unsustainable course, it is projected this same coverage will cost $16,971 in 2016. Because they lack bargaining leverage, small businesses pay on average 18 percent more than larger businesses for the same health insurance. Despite their best intentions to provide quality, affordable benefits to their employees, the unsustainable trends in our current health care system have already forced many small businesses to make tough decisions.

The Senate health care reform bill addresses the main challenges facing small businesses—affordability and choice. The Patient Protection and Affordable Care Act will increase quality, affordable options in the small group market. The Small Business Health Options Program, SHOP, Exchange will give small businesses the buying power they need to get better deals and reduce administrative burdens. And small businesses providing health insurance to their employees will be eligible for a tax credit to improve affordability. The bill will also end the discriminatory insurance industry practices in the small group market of jacking up premiums by up to 200 percent because an employee gets sick or older, or because the business hired a woman.

The Senate health reform bill will give a new measure of security to those with health insurance and extend this security to more than 30 million Americans who are currently uninsured. It will lower premiums, protect jobs and benefits, and help small businesses grow.

Mr. GRASSLEY. Mr. President, yesterday afternoon, a few of my friends on the other side made some assertions about congressional history, fiscal policy, and the role of bipartisan tax relief for the period of 2001–2006. The speakers were the distinguished junior Senators from Vermont, Ohio, and Minnesota. They are all passionate Members. They are articulate voices of the progressive, as they term it, or very liberal wing, as those of us on this side term it, portion of the Senate Democratic Caucus.

I respect the passion they bring to their views. But, as one of them has said frequently in his early months of Senate service, we are entitled to our opinions, but not entitled to our own facts. I couldn't agree more with that notion. In order to insure an intellectually honest standard of debate, both sides need to correct the record when they feel the other side has misstated the facts. It is in that spirit that I respond today.

I won't take this time to debate the merits of the surtax that they propose as a substitute revenue raiser in this bill. That can wait till we debate their amendment. I am going to focus on their assertions about recent fiscal history and the role of bipartisan tax relief.

Before I address the revisionist fiscal history we heard, I would like to set the record straight on congressional history.

It was said yesterday afternoon that there were 8 years of a George W. Bush administration and Republican Congress. If the Members making these assertions would go back and check the records of the Senate, they would find that during that 8-year period Republicans controlled the Senate when it was evenly divided for a little over 5 months. For almost half the month of January 2001, Democrats held the majority because outgoing Vice President Gore broke ties. For the balance of the period from January 20, 2001, through June 6, 2001, the Senate was evenly divided, but Republicans held because of Vice President Cheney's tie breaking vote.

On June 6, 2001, the Democrats regained the majority when Senator Jeffords, previously a Republican, began caucusing with Senate Democrats. For the balance of 2001, 2002, and in early 2003, Democrats held the majority.

For two Congresses, half of President Bush's term, Republicans held a majority. For the last 2 years of the George W. Bush Presidency, Democrats controlled both Houses of Congress.

When you add it up, with the exception of a little over 4 months when the Senate was equally divided, Democrats controlled the Senate for about half the period of the George W. Bush administration.

When you hear some of our friends on the other side debate recent fiscal history, these basic facts regarding political power and accountability are obscured. Perhaps it is their opinion that Democrats were not exercising majority power during that period, but the fact is that Democrats controlled the Senate for almost half the period of the George W. bush administration.

Now let's turn to the fiscal history assertions from my friends on the other side. The revisionist history basically boils down to two conclusions:

1. That all of the bipartisan tax relief enacted during that period was skewed to the top 1 percent or top two-tenths of 1 percent of taxpayers; and

2. That all of the ''bad'' fiscal history of this decade to date is attributable to the bipartisan tax relief plans.

Not surprisingly, nearly all of the revisionists who spoke generally oppose tax relief and support tax increases. The same crew generally support spending increases and oppose spending cuts.

On the first point, two of the three speakers from the other side voted for the conference report for fiscal year 2010 budget resolution. The third speaker was not a Member of this body at that time the conference report was adopted. I am not aware, however, of his opposition to that budget which was drawn up by the Senate Democratic Caucus.

That budget was similar to President Obama's first budget. A core portion of that budget, much ballyhooed by the Democratic leadership, was an extension of the major portion of the bipartisan tax relief enacted during the period of 2001–2006. As a matter of fact, roughly 80 percent of the revenue loss from that legislation, much criticized by the three speakers yesterday afternoon, is contained in the budget that two of them voted for. Eighty percent is usually a pretty fair endorsement of any policy. Again, I have not heard the third speaker, the junior Senator from Minnesota, indicate that he doesn't support the tax relief included in the Democratic budget. Perhaps I missed something. In addition, the three speakers need to pay attention to analyses from the nonpartisan Joint Committee on Taxation.

If they did examine those analyses, they would find that, in terms of the burden of taxation, the 2001 legislation redistributed the burden from lower income taxpayers to higher income taxpayers.

Now, I turn to the second fiscal revisionist history point. That point is that all of the ''bad'' fiscal history of this decade to date is attributable to the bipartisan tax relief plans.

In the debate so far, many on this side have pointed out some key, undeniable facts. We agree with the President on one key fact. The President inherited a big deficit and a lot of debt.

The antirecessionary spending, together with lower tax receipts, and the TARP activities has set a fiscal table of a deficit of $1.2 trillion. That was on the President's desk when he took over the Oval Office on January 20, 2009. That is the highest deficit, as a percentage of the economy, in Post World War II history.

Not a pretty fiscal picture. And, as predicted several months ago, that fiscal picture got a lot uglier with the $787 billion stimulus bill. So for the folks who saw that bill as an opportunity to ''recover'' America with government taking a larger share of the economy over the long term, I say congratulations.

For those who voted for the stimulus bill, including two of the three speakers to which I refer, they put us on the path to a bigger role for the government. Over a trillion dollars of new deficit spending was hidden in that bill. The Congressional Budget Office concluded that the permanent fiscal impact of that bill totaled over $2.5 trillion over 10 years. It caused some of the extra red ink. Supporters of that bill need to own up to the fiscal course they charted.

Now, to be sure, after the other side pushed through the stimulus bill and the second half of the $700 billion of TARP money, CBO reestimated the baseline. A portion of this new red ink, upfront, is due to that reestimate.

The bottom line, however, is that reestimate occurred several weeks after the President and robust Democratic majorities took over the government. Decisions were made and the fiscal consequences followed.

Some on the other side who raises this point about the March CBO reestimate. That is fine. But, if they were to be consistent and intellectually honest, then they would have to acknowledge the CBO reestimate that occurred in 2001 after President Bush took office. The surplus went south because of economic conditions. The $5.6 trillion number so often quoted by those on the other side was illusory.

The three members should go back and take a look at what CBO said at the time. According to CBO, for the first relevant fiscal year, the tax cut represented barely 14 percent of the total change in the budget. For instance, for the same period, increased appropriations outranked the tax cut by $6 billion. So, spending above baseline, together with lower projected revenues, accounted for 86 percent of the change in the budget picture. Let me repeat that. Bipartisan tax relief was a minimal, 14-percent factor, in the change in the budget situation.

Over the long term, the tax cut was projected to account for 45 percent of the change in the budget picture. Stated another way, the 10-year surplus declined from $5.6 trillion to $1.6 trillion. Of that $4.0 trillion change, the tax cut represented about $1.7 trillion of the decline.

Let's take a look at the fiscal history before the financial meltdown hit. That conclusion is, again, in this decade, all fiscal problems are attributable to the widespread tax relief enacted in 2001, 2003, 2004, and 2006.

In 2001, President Bush came into office. He inherited an economy that was careening downhill. Investment started to go flat in 2000. The tech-fueled stock market bubble was bursting. Then came the economic shocks of the 9/11 terrorist attacks.

Add in the corporate scandals to that economic environment. And it is true, as fiscal year 2001 came to close, the projected surplus turned to a deficit. I referred to the net effects of some of these unforeseen events on the projected $5.6 trillion surplus.

Now, yesterday afternoon's three speakers may so oppose bipartisan tax relief that they want to attribute all fiscal problems to the tax relief. The official scorekeepers show the facts to be different.

Those on this side of the aisle have a different view than the revisionists. In just the right time, the 2001 tax relief plan started to kick in. The fiscal facts show as the tax relief hits its full force in 2003, the deficits grew smaller. They grew smaller in amount. They grew smaller as a percentage of the economy. This pattern continued up through 2007.

If my comments were meant to be partisan shots, I could say this favorable fiscal path from 2003 to 2007 was the only period, aside from 6 months in 2001, where Republicans controlled the White House and the Congress.

But, unlike the fiscal history revisionists, I am not trying to make any partisan points. I am just trying to get to the fiscal facts.

So, let's get the fiscal history right.

In this decade, deficits went down after the tax relief plans were put in full effect. Deficits did start to trend back up after the financial meltdown hit. I doubt the fiscal history revisionists who spoke yesterday would say that bipartisan tax relief was the cause of the financial meltdown. So, aside from that unrelated bad macroeconomic development, the trend line showed revenues on the way back up.

But that is the past. We need to make sure we understand it. But what is most important is the future. People in our States send us here to deal with future policy. This budget debate should not be about Democrats flogging Republicans and vice-versa. The people don't send us here to flog one another, like partisan cartoon cut-out characters, over past policies. They don't send us here to endlessly point fingers of blame. Now, let's focus on the fiscal consequences of the budget that is before the Senate.

President Obama rightly focused us on the future with his eloquence during the campaign. I'd like to take a quote from the President's nomination acceptance speech:

> We need a President who can face the threats of the future, not grasping at the ideas of the past.

President Obama was right.

We need a President, and I would add Congressmen and Senators, who can face the threats of the future. The legislation before us, as currently written, poses considerable threats to our fiscal future. It is too important to dodge. It is a bill that restructures one-sixth of the economy. It affects all of us and, more importantly, all of our constituents.

Grasping at ideas of the past or playing the partisan blame game will not deal with the threats to our fiscal future. Let's face the honest fiscal facts. Let's not revise fiscal history as we start this critical debate about the fiscal choices ahead of us. The people who send us here have a right to expect nothing less of us.

ORDER AUTHORIZING SIGNATURE

Mr. PRYOR. Mr. President, I ask unanimous consent that the majority