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Senate

The Senate met at 9:46 a.m. and was called to order by the Honorable ROBERT P. CASEY, a Senator from the Commonwealth of Pennsylvania.

PRAYER

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rev. Ricky A. Phillips, Pastor, St. John's Church, Winfield, PA, and Zephyr Union Church, Lewisburg, PA.

The guest Chaplain offered the following prayer:

Let us pray.

Creator God, our Maker and Redeemer, You bless us every day with the beauty of creation. When we look at creation, we can see the beauty of its diversity. In this room today, we can see this wonderful diversity. There are many different God-given talents.

May Your presence be felt by all the Senators, and may they come to You for guidance and comfort. May You bless them and give them the ability to recognize the strength of this diversity in its fullest capacity.

These are tough times. There are many who are in need. There are many who are hurting.

Empower our Senators to celebrate this diversity by helping them to reconcile these different talents so that they can help those who are in need and those who cannot defend themselves. May they yield themselves to Your will in order to fulfill Your purposes for our Nation and the world.

In Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROBERT P. CASEY led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 25, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT P. CASEY, a Senator from the Commonwealth of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mrs. GILLIBRAND). The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, today we will resume voting on amendments and motions to the health care legislation. Senators should expect a series of votes to begin momentarily.

Under a previous agreement, we will proceed to passage of reconciliation at 2 p.m. today. Other votes will still be possible with respect to short-term extensions of provisions that expire over the break, I should notify all Members.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 4872, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4872) to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13).

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, the Senator from Nevada is going to be recognized to offer an amendment at this time. I note that after the Senator from Nevada, the plan is to go to Senator COBURN, Senator SESSIONS, Senator CORNYN, Senator GRASSLEY, Senator BROWNBACK, Senator VITTER and Senator DEMINT, and then maybe Senator COBURN again and then maybe Senator ENSIGN again.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 3593

Mr. ENSIGN. Madam President, I call up amendment No. 3593.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 3593.

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

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

The amendment is as follows:

(Purpose: To improve access to pro bono care for medically underserved or indigent individuals by providing limited medical liability protections)

At the end of subtitle B of title II, insert the following:

SEC. 2___. HEALTH CARE SAFETY NET ENHANCEMENT.

(a) LIMITATION ON LIABILITY.—Notwithstanding any other provision of law, a health care professional shall not be liable in any medical malpractice lawsuit for a cause of action arising out of the provision of, or the failure to provide, any medical service to a medically underserved or indigent individual while engaging in the provision of pro bono medical services.

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

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(b) REQUIREMENTS.—Subsection (a) shall not apply—

(1) to any act or omission by a health care professional that is outside the scope of the services for which such professional is deemed to be licensed or certified to provide, unless such act or omission can reasonably be determined to be necessary to prevent serious bodily harm or preserve the life of the individual being treated;

(2) if the services on which the medical malpractice claim is based did not arise out of the rendering of pro bono care for a medically underserved or indigent individual; or

(3) to an act or omission by a health care professional that constitutes willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by such professional.

(c) DEFINITION.—In this section—

(1) the term ''medically underserved individual'' means an individual who does not have health care coverage under a group health plan, health insurance coverage, or any other health care coverage program; and

(2) the term ''indigent individual'' means and individual who is unable to pay for the health care services that are provided to the individual.

Mr. ENSIGN. Madam President, very briefly, this is an amendment to improve the health care system in America. We talk about making health care more affordable. One of the ways to do that is to encourage people to give away health care.

In my veterinary practice, I used to give away about 10 to 20 percent of my business. I did not have to be worried about being sued. Every doctor, every health care provider I have talked with, if they give away, if they do it pro bono, if they do it out of compassion, that is one of the first times they are going to get sued.

What this amendment says is, unless there is gross negligence, if a health care provider is giving their services away out of the compassion of their heart, they cannot be sued. It is a very simple amendment.

We have had this debate on the Senate floor before. This would greatly improve our medical system by encouraging people to be compassionate for those who cannot afford medical care, but they should not have to be worried about being sued if they happen to be compassionate enough to give their services away.

This is a commonsense amendment. I encourage all our colleagues to vote for this amendment. This will improve our health care system in the United States.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. BAUCUS. Madam President, we just now saw this amendment. We have to look at it. 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. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAUCUS. Madam President, as I said, we were just handed this amendment. We have now examined it. This is an amendment that is related to medical malpractice and tort reform. There are a lot of provisions already in the bill which cover this subject. However, the main point of this amendment is not the jurisdiction of the relevant committees.

I raise a point of order that the Ensign amendment would violate section 313(b)(1)(C) of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Pursuant to section 904 of the Congressional Budget Act of 1974 and section 4(g)(3) of the statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from West Virginia (Mr. BYRD), the Senator from Washington (Ms. CANTWELL), and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

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

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

The yeas and nays resulted—yeas 40, nays 55, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—40

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

NAYS—55

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

NOT VOTING—5

Boxer	Cantwell	Lautenberg
Byrd	Isakson	

The PRESIDING OFFICER. On this vote, the yeas are 40, the nays are 55. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the amendment falls.

Mr. GREGG. Madam President, I understand we will now be having 10-minute votes. Is that correct?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GREGG. I ask unanimous consent that all additional votes on this bill be 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Oklahoma.

AMENDMENT NO. 3700

Mr. COBURN. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 3700.

Mr. COBURN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To help protect Second Amendment rights of law-abiding Americans)

At the end, add the following:

TITLE III—SECOND AMENDMENT PROTECTION

SEC. 3001. VETERANS SECOND AMENDMENT PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Veterans 2nd Amendment Protection Act''.

(b) CONDITIONS FOR TREATMENT OF CERTAIN PERSONS AS ADJUDICATED MENTALLY INCOMPETENT FOR CERTAIN PURPOSES.—

(1) IN GENERAL.—Chapter 55 of title 38, United States Code, is amended by adding at the end the following:

''§ 5511. Conditions for treatment of certain persons as adjudicated mentally incompetent for certain purposes

''In any case arising out of the administration by the Secretary of laws and benefits under this title, a person who is mentally incapacitated, deemed mentally incompetent, or experiencing an extended loss of consciousness shall not be considered adjudicated as a mental defective under subsection (d)(4) or (g)(4) of section 922 of title 18 without the order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction that such person is a danger to himself or herself or others.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of such title is amended by adding at the end the following new item:

''5511. Conditions for treatment of certain persons as adjudicated mentally incompetent for certain purposes.''.

(c) SEVERABILITY.—Notwithstanding any other provision of this Act, if any provision

of this section, or any amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, this section and amendments made by this section and the application of such provision or amendment to other persons or circumstances shall not be affected thereby.

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

Mr. COBURN. Madam President, 140,000 of our troops have lost their second amendment rights as they go through the VA hospital system. They are not a danger to themselves or anyone else. This amendment is something that has passed this body unanimously, has come out of the committee unanimously, but still we have 140,000 of our long-serving veterans who have lost their rights to own a gun, hunt with their grandchildren, or to hunt birds in North Dakota.

We have taken it away, not because of anything we did, because the bureaucracy did it. This amendment restores that. As they have gone through the VA system and the health care system, a bureaucrat has taken that right away.

This is supported by the National Alliance on Mental Illness, AMVETS, Military Order of Purple Heart, NRA, Gun Owners of America, Veterans of Foreign Wars, and the American Legion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, this is a health care reform——

Mr. COBURN. They lost it under their health care.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. This is a health care reform bill, and we should keep all amendments to that subject. When we were sworn in as Senators, we took an oath of office to support the Constitution of the United States, which clearly includes the second amendment. All of us have a strong belief in the second amendment to our Constitution. But whatever you think about second amendment rights and the application of the second amendment, whatever you think about veterans and the relationship to questions of competency, I think we all should agree that neither what anybody thinks about second amendment rights or what veterans' relations should be to that should be in this bill. This is a health care bill.

I note this bill already explicitly protects the rights of gun owners. Therefore, because this amendment is nearly entirely composed of matter outside the jurisdiction of the reconciled committees, I raise a point of order that the Coburn amendment violates section 313(b)(1)(C) of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Pursuant to section 904 of the Congressional Budget Act of 1974 and section 4(g)(3) of the Statutory Pay-as-you-go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of my amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the motion. 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 Georgia (Mr. ISAKSON).

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

The yeas and nays resulted—yeas 45, nays 53, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—45

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

NAYS—53

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

NOT VOTING—2

Byrd	Isakson

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 53. Three-fifths of the Senators duly chosen and sworn having not voted in the affirmative, the motion is not agreed to, the point of order is sustained, and the amendment falls.

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

The motion to lay upon the table was agreed to.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 3701

Mr. SESSIONS. Madam President, President Obama made a promise to the American people that health care legislation would not provide benefits to those illegally in the country.

The PRESIDING OFFICER. Does the Senator wish to call up his amendment?

Mr. SESSIONS. I would call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 3701.

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

The amendment is as follows:

(Purpose: To ensure that Americans are not required to pay for the health benefits for those here illegally by requiring the use of an effective eligibility verification system, consistent with existing law for other Federal health related programs, and to also maintain the current, and well-established requirement of law, that legal immigrants should not become a ''public charge'' or burden to the American taxpayers, to reduce the cost of this bill, and to reduce the deficit and for other purposes)

At the end of subtitle A of title I, insert the following:

SEC. 1006. PROVISIONS TO ENSURE EFFECTIVE ELIGIBILITY VERIFICATION SYSTEM.

(a) ELIGIBILITY FOR CREDITS AND COST-SHARING REDUCTIONS.—

(1) CREDITS.—Section 36B of the Internal Revenue Code of 1986, as added by section 1401 of the Patient Protection and Affordable Care Act, is amended—

(A) in subsection (c) (1), by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively, and

(B) by striking paragraph (3) of subsection (e).

(2) REDUCED COST-SHARING.—Section 1402 of the Patient Protection and Affordable Care Act is amended—

(A) by striking the last sentence of subsection (b),

(B) by striking paragraph (3) of subsection (e), and

(C) by adding at the end of subsection (f) the following:

''(4) SUBSIDIES TREATED AS PUBLIC BENEFIT.—Notwithstanding any other provision of this Act or any other provision of law, for purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613), the following shall be considered a Federal means-tested public benefit:

''(A) The ability of an individual to purchase a qualified health plan offered through an Exchange.

''(B) The premium tax credit established under section 1401 of this Act (and any advance payment thereof).

''(C) The cost sharing reductions established under this section (and any advance payment thereof).''.

(b) ELIGIBILITY DETERMINATIONS.—Section 1411 of the Patient Protection and Affordable Care Act is amended—

(1) in subsection (a)—

(A) by striking so much of such subsection as precedes paragraph (1) and inserting:

''(a) VERIFICATION PROCESS.—The Secretary shall ensure that eligibility determinations required by this Act are conducted in accordance with the following requirements, including requirements for determining:'', and

(B) by inserting ''eligible'' before ''alien'' in paragraph (1),

(2) in subsection (b)(1)—

(A) by inserting ''the Exchange with the following'' after ''provide'',

(B) by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following:

''(B) a sworn statement, under penalty of perjury, specifically attesting to the fact that each enrollee is either a citizen or national of the United States or an eligible lawful permanent resident meeting the requirements of section 1402(f)(3) of this Act and identifying the applicable eligibility status for each enrollee; and'', and

(C) by inserting ''and documentation'' after ''information'' in subparagraph (C) (as so redesignated),

(3) by striking subparagraphs (A) and (B) of subsection (b)(2) and inserting the following:

''(A) In the case of an enrollee whose eligibility is based on attestation of citizenship of the enrollee, the enrollee shall provide satisfactory evidence of citizenship or nationality (within the meaning of section 1903(x) of the Social Security Act (42 U.S.C. 1396b)).

''(B) In the case of an individual whose eligibility is based on attestation of the enrollee's immigration status—

''(i) such information as is necessary for the individual to demonstrate they are in 'satisfactory immigration status' as defined and in accordance with the Systematic Alien Verification for Entitlements (SAVE) program established by section 1137 of the Social Security Act (42 U.S.C. 1320b–7), and

''(ii) any other additional identifying information as the Secretary, in consultation with the Secretary of Homeland Security, may require in order for the enrollee to demonstrate satisfactory immigration status.'',

(4) by striking so much of subsection (c) as precedes paragraph (3) and inserting the following:

''(c) VERIFICATION OF ELIGIBILITY THROUGH DOCUMENTATION.—

''(1) IN GENERAL.—Each Exchange shall conduct eligibility verification, using the information provided by an applicant under subsection (b), in accordance with this subsection.

''(2) VERIFICATION OF CITIZENSHIP OR IMMIGRATION STATUS.—

''(A) VERIFICATION OF ATTESTATION OF CITIZENSHIP.—Each Exchange shall verify the eligibility of each enrollee who attests that they are a citizen or national of the United States, as required by subsection (b)(1)(A) of this section, in accordance with the provisions of section 1903(x) of the Social Security Act.

''(B) VERIFICATION OF ATTESTATION OF ELIGIBLE IMMIGRATION STATUS.—Each Exchange shall verify the eligibility of each enrollee who attests that they are eligible to participate in the exchange by virtue of having been a lawful permanent resident for not less than 5 years, as required by subsection (b)(l)(B) of this section, in accordance with the provisions of section 1137 of the Social Security Act.'',

(5) by striking subparagraph (B) of subsection (c)(4),

(6) by striking subsection (d) and redesignating subsections (e) through (i) as subsections (d) through (h), respectively, and

(7) by striking ''under section 1902(ee) of the Social Security Act (as in effect on January 1, 2010)'' in subsection (d)(3) (as redesignated under paragraph (6)) and inserting ''in accordance with the secondary verification process established consistent with section 1137 of the Social Security Act (as is in effect as of January 1, 2009)''.

Mr. SESSIONS. I would note that loopholes do remain in the health care legislation. My amendment would simply ensure that the promise that has been made to the American people would be kept. It sets up an effective eligibility verification system consistent with that for other Federal health-related programs.

The amendment maintains current law, which prohibits legal immigrants from becoming a public charge on the taxpayers. It also prohibits the Secretary from drafting any regulation that would amend or alter these principles, principles that the President, the Congress, and the American people have said they support. The amendment would reduce fraud and the financial burden of the legislation on the American taxpayers.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I urge my colleagues to oppose the Sessions amendment. It does two things. First, it requires legal permanent residents in the United States to produce documentary proof of their legality. We tried this under Medicaid and found out that many people in our country, the elderly and others, found it difficult to produce documentation though they were clearly eligible and clearly legal and entitled to basic assistance.

Instead, our bill that we passed, health care reform, verifies that a person is legal by declaration of their Social Security number, which is verified. So we go through a good process here to make sure only those eligible will receive, and, secondly, what Senator SESSIONS' amendment does, is say to legal permanent residents paying taxes, they cannot use the Tax Code like other citizens for deductions and credits for 5 years. They are paying taxes under the Tax Code. They should be allowed the same tax credits as other Americans, other people living in this country.

I urge my colleagues to defeat it for those two reasons, and the fact that this is an attempt to derail this bill.

I move to table the Sessions amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The 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 Georgia (Mr. ISAKSON).

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

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—55

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

NAYS—43

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

NOT VOTING—2

Byrd	Isakson

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3698

Mr. CORNYN. Madam President, I call up amendment No. 3698 and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 3698.

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

The amendment is as follows:

(Purpose: To ensure that health care reform reduces health care costs for American families, small businesses, and taxpayers)

At the end of subtitle F of title I, insert the following:

SEC. 1___. LIMITATION ON APPLICATION OF ACTS.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not implement the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2011 until the Office of the Actuary at the Centers for Medicare & Medicaid Services certifies to Congress that such Acts will reduce National health expenditures relative to the level of such expenditures under current law.

Mr. CORNYN. Madam President, this amendment would ensure that health care reform costs are lowered by this piece of legislation. If independent actuaries for the Centers for Medicare and Medicaid Services cannot certify that this health care reform legislation lowers national health expenditures, this bill will not go into effect.

I reserve the remainder of my time before the vote.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, this amendment is a thinly disguised attempt to kill health care reform. Let me explain why. I remind my colleagues that the Congressional Budget Office has told us that in the first 10 years the bill actually will reduce the deficit by a significant amount. CBO also informs us that health care reform will lower premiums for 97 percent of Americans, improve benefits for many who are underinsured, and health care reform will bend the growth curve of health care spending. The CMS Actuary also says that national health care spending will be lower under the law than it will be without reform. In 2019, health spending will be 6.7 percent, compared to 7.2 without reform.

To prohibit implementation unless all these projections bear out is just another attempt to kill the bill. For that reason, I urge colleagues to resist this amendment.

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

The Senator from Texas.

Mr. CORNYN. Madam President, if you raise taxes enough and if you cut Medicare enough, you might be able to claim, through phony bookkeeping, that somehow this cuts the deficit. The administration's own actuaries have concluded this law will raise health care costs. That is why it is important we pass this amendment, so that the central purpose of this legislation—to bend the cost curve down—is actually realized.

I urge colleagues to support the amendment.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, we need to move these amendments more quickly. We have an agreement. We want to make sure everyone continues working in good faith. I ask unanimous consent that all future votes, starting with this one, be 10 minutes, and we will only have 2 minutes for the penalty period, so to speak. After 12 minutes, the votes are going to be cut off. Everyone should understand.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill 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 Georgia (Mr. ISAKSON).

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

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—58

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

NAYS—40

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

NOT VOTING—2

Byrd	Isakson

The motion was agreed to.

Mr. SCHUMER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 3569

Mr. GRASSLEY. Mr. President, I call up amendment No. 3569.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 3569.

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

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

The amendment is as follows:

(Purpose: To amend title XVIII of the Social Security Act to ensure Medicare beneficiary access to physicians, eliminate sweetheart deals for frontier States, and ensure equitable reimbursement under the Medicare program for all rural States)

At the end of subtitle B of title I, insert the following:

SEC. ____. REVISIONS TO THE PRACTICE EXPENSE GEOGRAPHIC ADJUSTMENT UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.

Effective as if included in the enactment of the Patient Protection and Affordable Care Act, subparagraph (H) of section 1848(e)(1) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)), as added by section 3102(b) of the Patient Protection and Affordable Care Act, is amended to read as follows:

''(H) PRACTICE EXPENSE GEOGRAPHIC ADJUSTMENT FOR 2010 AND SUBSEQUENT YEARS.—

''(i) FOR 2010.—Subject to clause (iii), for services furnished during 2010, the employee wage and rent portions of the practice expense geographic index described in subparagraph (A)(i) shall reflect ½ of the difference between the relative costs of employee wages and rents in each of the different fee schedule areas and the national average of such employee wages and rents.

''(ii) FOR 2011.—Subject to clause (iii), for services furnished during 2011, the employee wage and rent portions of the practice expense geographic index described in subparagraph (A)(i) shall reflect ¼ of the difference between the relative costs of employee wages and rents in each of the different fee schedule areas and the national average of such employee wages and rents.

''(iii) HOLD HARMLESS.—The practice expense portion of the geographic adjustment factor applied in a fee schedule area for services furnished in 2010 or 2011 shall not, as a result of the application of clause (i) or (ii), be reduced below the practice expense portion of the geographic adjustment factor under subparagraph (A)(i) (as calculated prior to the application of such clause (i) or (ii), respectively) for such area for such year.

''(iv) ANALYSIS.—The Secretary shall analyze current methods of establishing practice expense geographic adjustments under subparagraph (A)(i) and evaluate data that fairly and reliably establishes distinctions in the costs of operating a medical practice in the different fee schedule areas. Such analysis shall include an evaluation of the following:

''(I) The feasibility of using actual data or reliable survey data developed by medical organizations on the costs of operating a medical practice, including office rents and nonphysician staff wages, in different fee schedule areas.

''(II) The office expense portion of the practice expense geographic adjustment described in subparagraph (A)(i), including the extent to which types of office expenses are determined in local markets instead of national markets.

''(III) The weights assigned to each of the categories within the practice expense geographic adjustment described in subparagraph (A)(i).

In conducting such analysis, the Secretary shall not take into account any data that is not actual or survey data.

''(v) REVISION FOR 2012 AND SUBSEQUENT YEARS.—As a result of the analysis described in clause (iv), the Secretary shall, not later than January 1, 2012, make appropriate adjustments to the practice expense geographic adjustment described in subparagraph (A)(i) to ensure accurate geographic adjustments across fee schedule areas, including—

''(I) basing the office rents component and its weight on occupancy costs only and making weighting changes in other categories as appropriate;

''(II) ensuring that office expenses that do not vary from region to region be included in the 'other' office expense category; and

''(III) considering a representative range of professional and non-professional personnel employed in a medical office based on the use of the American Community Survey data or other reliable data for wage adjustments.

Such adjustments shall be made without regard to adjustments made pursuant to clauses (i) and (ii) and shall be made in a budget neutral manner.

''(vi) SPECIAL RULE.—If the Secretary does not complete the analysis described in clause (iv) and make any adjustments the Secretary determines appropriate for 2012 or a subsequent year under clause (v), the Secretary shall apply clause (ii) for services furnished during 2012 or a subsequent year in the same manner as such clause applied for services furnished during 2011.''.

SEC. ___. ELIMINATION OF SWEETHEART DEAL THAT INCREASES MEDICARE REIMBURSEMENT JUST FOR FRONTIER STATES.

Effective as if included in the enactment of the Patient Protection and Affordable Care Act, section 10324 of such Act (and the amendments made by such section) is repealed.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 1 minute.

Mr. GRASSLEY. Mr. President, this is about geographical equity for all States. The Senate health reform bill just signed into law includes a frontier sweetheart deal that improves Medicare payments for five rural States at the expense of the other 45. The special deal is for North Dakota, South Dakota, Montana, Utah, and Wyoming. The Washington Post calls these deals the ''Candy Land'' of the health care bill. Repealing this provision will not kill the bill because it has to go back to the House anyway.

My amendment also ensures that Health and Human Services cannot undo the formula fix that my amendment established in the Senate health care bill that is now law.

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, I have the highest regard for my good friend from Iowa. We work very closely together. We want to make sure our States are fully incorporated, involved in the national health care delivery system; that is, rural States. We also want a balance between urban and rural. It is the only fair solution. This bill has that balance.

I might say, there are some—I chuckle a little bit—I have talked to some of my friends in the East who talk about rural America—rural New York or rural Illinois or rural Indiana—and I appreciate that very much. But we are talking here, with frontier States, with what is really rural: only about six people per square mile.

So I say to my friend from Iowa, we have the balance in the bill. We should maintain that current balance. I think this amendment is inadvisable, and I urge us to not support it.

Mr. President, I move to table the amendment, and 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 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.

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

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

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—53

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

NAYS—45

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

NOT VOTING—2

Byrd	Isakson

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

AMENDMENT NO. 3697

Mr. BROWNBACK. Madam President, I call up, on behalf of myself and Senator MURKOWSKI, amendment No. 3697 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK], for himself and Ms. MURKOWSKI, proposes an amendment numbered 3697.

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

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

The amendment is as follows:

(Purpose: To index tax thresholds imposed under the legislation to prevent the government from using inflation to impose those taxes on individuals currently making less than $200,000 and families making less than $250,000)

At the end of section 1402(a), insert the following:

(5) INFLATION ADJUSTMENT.—Section 1411 of the Internal Revenue Code of 1986, as added by paragraph (1), is amended by adding at the end the following new subsection:

''(f) ADJUSTMENT FOR INFLATION.—In the case of any taxable year beginning after December 31, 2013, each of the dollar amounts under paragraphs (1) and (3) of subsection (b), subparagraphs (A) and (C) of section 3101(b)(2), and clauses (i) and (iii) of section 1401(b)(2)(A) shall be increased by an amount equal to—

''(1) such amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which such taxable year begins by substituting 'calendar year 2012' for 'calendar year 1992' in subparagraph (B) thereof. If any increase determined under this subsection is not a multiple of $1,000, such increase shall be rounded to the next lowest multiple of $1,000.''.

Mr. BROWNBACK. Madam President, this is a very simple but very important amendment in the sense that the new surtaxes on Medicare, on wages, and on unearned income are not indexed for inflation. All of my colleagues are familiar with the problem we have had with the alternative minimum tax being not indexed for inflation, and with that being a problem, it is now built into this bill. This new surtax is not indexed for inflation.

If I can show my colleagues for a moment, on this chart, we can see how quickly, with a 4-percent rate of inflation, the people who are getting the subsidy today will be taxed as high income in a few years. This is a problem we are very familiar with. We fight with it regularly. It is part of the funding base of this bill. It needs to be taken out. The bill should not be paid for with inflation, and we are all too likely to have significant inflation.

So I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I have a lot of sympathy with the amendment. We don't want to get into an AMT situation. The AMT was not indexed when the AMT was enacted. We are now paying the price today. It is very possible that if this level is not indexed, we may be paying the price later on, in several years' time, but this is not the time or place.

I might also say there are other provisions in the bill that are not indexed, such as the affordability provisions. That is not indexed. I don't think it is fair to index only for upper income and others whose incomes are below $20,000. But it is an issue, and we will address this at a subsequent date because it must be.

In the meantime, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill 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 Georgia (Mr. ISAKSON).

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

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—56

Akaka	Bingaman	Cantwell
Baucus	Boxer	Cardin
Begich	Brown (OH)	Carper
Bennet	Burris	Casey

Conrad	Kohl	Reed
Dodd	Landrieu	Reid
Dorgan	Lautenberg	Rockefeller
Durbin	Leahy	Sanders
Feingold	Levin	Schumer
Feinstein	Lieberman	Shaheen
Franken	Lincoln	Specter
Gillibrand	McCaskill	Stabenow
Hagan	Menendez	Tester
Harkin	Merkley	Udall (CO)
Inouye	Mikulski	Udall (NM)
Johnson	Murray	Warner
Kaufman	Nelson (NE)	Whitehouse
Kerry	Nelson (FL)	Wyden
Klobuchar	Pryor	

NAYS—42

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

NOT VOTING—2

Byrd	Isakson

The motion was agreed to.

AMENDMENT NO. 3665

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I ask unanimous consent that amendment No. 3665 be called up and immediately considered.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 3665.

Mr. VITTER. I ask unanimous consent that the reading of the whole be waived.

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

The amendment is as follows:

(Purpose: To prevent the new government entitlement program from further increasing an unsustainable deficit)

At the end of subtitle B of title I, insert the following:

SEC. _____. SUSPENSION OF THE ACT.

If at the beginning of any fiscal year OMB determines that the deficit targets set forth in the CBO report of March 20, 2010 will not be met, the provisions of this Act and the Patient Protection and Affordable Care Act shall be suspended for that year.

Mr. VITTER. Madam President, I was very happy to hear the distinguished chairman of the Finance Committee absolutely promise that the ObamaCare bill will reduce the deficit, and the CBO projects that. The problem is, I think the American people have a very different view based on their gut common sense. There was a recent national scientific poll that showed significantly more Americans think there is life on Mars than think that the bill will reduce the deficit.

My amendment is a simple, straightforward way to settle the question. It says for any fiscal year when those CBO costs or deficit reduction projections are busted, the entire ObamaCare bill is suspended. So, in fact, if this is ballooning spending and ballooning the deficit, we will stop it in its tracks. I urge a ''yes'' vote.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, we have had all sorts of amendments this morning. We have had amendments on malpractice, we have had amendments on guns, we have had amendments on immigration. Even last night we had amendments on some very interesting subjects, but this is the return of the killer amendment. We had a few killer amendments yesterday, and this is the return of the killer amendment.

Why is it a killer amendment? Basically because this would suspend health care reform if certain arbitrary budget targets are not met. It is on again, off again, wondering about the other. It is clearly designed to kill the bill. Therefore, Madam President, I raise a point of order that the Vitter amendment violates section 313(b)(1)(c) of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, my amendment only kills the bill——

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

Mr. VITTER. If the bill busts the budget.

Pursuant to section 904 of the Congressional Budget Act of 1974 and section 4(g)(3) of the Statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question occurs on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Colorado (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. ISAKSON) and the Senator from Utah (Mr. BENNETT).

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

The yeas and nays resulted—yeas 39, nays 56, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—39

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

NAYS—56

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

NOT VOTING—5

Bennett	Isakson	Udall (CO)
Byrd	Landrieu	

The PRESIDING OFFICER. On this vote, the yeas are 39 and the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the amendment falls.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Carolina.

MOTION TO COMMIT

Mr. DEMINT. I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina. [Mr. DEMINT] moves to commit the bill H.R. 4872 to the Committee on Finance of the Senate with instructions to report the same back to the Senate within 1 day with changes that ensure that the Patient Protection and Affordable Care Act (including the amendments made by such Act) does not prohibit Americans from purchasing health insurance across State lines.

Mr. DEMINT. Madam President, this motion will ensure that the new government health regime that has just been made law will not prohibit Americans from purchasing private health insurance plans across State lines without going through a government exchange.

Throughout this yearlong health care debate, we have talked about the importance of competition between insurance companies, how it could bring accountability and lower costs. Yet the laws of the land have actually created State-by-State monopolies that have not been responsive to the American people and have run up costs.

This motion could change that, creating hundred of choices, for Americans all across our Nation, with insurance companies competing for their business. CBO says this would lower their costs at least 5 percent; other folks say much more, particularly if you are in a State with a lot of mandates.

I encourage my colleagues to support my motion.

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

The Senator from Montana.

Mr. BAUCUS. This is a motion to commit to the Finance Committee obviously designed to kill the bill. Clearly, there is inadequate competition among insurance companies in most of our States. In fact, in most States I think there are maybe just two major companies. We want to encourage much more competition.

Allowing them to sell across State lines is in concept a good idea, but it must be done responsibly. The underlying bill—the bill that passed, actually—does allow for interstate compacts. States can compact to sell across State lines. Once the exchange is open in 2014, insurance companies will automatically be able to sell across State lines. But to allow sales now would be irresponsible because it would encourage a race to the bottom. By that, I mean that irresponsible companies will be inclined to go to States with the lowest standards and then sell health insurance to other parts of the country, so people in other States will have virtually no remedies.

It makes sense to have health care reform provisions in place, and then we can sell across State lines with compacts through the exchanges.

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

Mr. BAUCUS. I move to table the DeMint 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 legislative clerk called the roll.

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

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

The yeas and nays resulted—yeas 56, nays 43, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—56

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

NAYS—43

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

NOT VOTING—1

Isakson

The motion was agreed to.

AMENDMENT NO. 3710

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. I call up amendment No. 3710.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself and Mr. BROWN of Massachusetts, proposes an amendment numbered 3710.

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

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

The amendment is as follows:

(Purpose: To strike the penalty for failure to comply with the individual mandate)

Strike section 1002 and insert the following:

SEC. 1002. REPEAL OF PENALTY FOR FAILURE TO MAINTAIN MINIMUM ESSENTIAL COVERAGE.

Section 5000A of the Internal Revenue Code of 1986, as added by the Patient Protection and Affordable Care Act, is amended by striking subsections (b), (c), (e), and (g).

Mr. ENSIGN. I call the attention of the Senate to this clever cartoon. This cartoon has captured a very important part of this health care bill. It is a Trojan horse that says ''health care reform'' on it. You see a bunch of IRS agents coming out.

My amendment goes to the heart of one of the problems with this bill. There is an individual mandate that puts fines on people that can also attach civil penalties. And 16,500 new IRS agents are going to be required to be hired because of the health care reform bill.

Do we want IRS agents showing up at people's houses, not only to audit them because of their taxes but because now they are not paying an individual mandate fine? I do not think America wants expansion of the IRS. We should be focusing on jobs, not new jobs for IRS agents.

I encourage my colleagues to vote for this amendment that would eliminate the individual fines on the individual mandates and civil penalties.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, the whole premise, the theory of health care reform is that it is a shared responsibility—employers, employees, American citizens, companies, a shared solution here.

The bill already waives any criminal penalties. That is taken out of the bill. No criminal penalties. A person cannot go to jail. That is provided for in the bill that was signed a couple of days ago. The bill also limits collection activities. It is very sensitive to the points made by the Senator from Nevada. It has a good balance of responsibility and accountability. But there must be some consequence of somebody not living up to his or her shared responsibility. It is very sensitive to doing this in the right way. I think it is a good balance. Their amendment goes way too far by eliminating any consequences.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. KAUFMAN), is necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. KAUFMAN) would vote ''aye.''

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

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

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—58

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

NAYS—40

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

NOT VOTING—2

Isakson Kaufman

The motion was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 3711

Ms. MURKOWSKI. I call up my amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Ms. MURKOWSKI] proposes an amendment numbered 3711.

Ms. MURKOWSKI. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide an inflation adjustment for the additional hospital insurance tax on high-income taxpayers)

On page 94, between lines 20 and 21, insert the following:

(2) INFLATION ADJUSTMENT.—

(A) FICA.—Paragraph (2) of section 3101(b) of the Internal Revenue Code of 1986, as added by section 9015 of the Patient Protection and Affordable Care Act and amended by section 10906 of such Act and paragraph (1), is amended—

(i) by striking ''In addition'' and inserting the following:

''(A) IN GENERAL.—In addition'', and

(ii) by striking ''and which are in excess of'' and all that follows and inserting ''and which are in excess of—

''(i) in the case of a joint return, $250,000,

''(ii) in the case of a married taxpayer (as defined in section 7703) filing a separate return, one-half the dollar amount determined under clause (i), and

''(iii) in any other case, $200,000.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2013, the $250,000 and $200,000 amounts under subparagraph (A) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2012' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $1,000.''.

(B) SECA.—

(i) IN GENERAL.—Paragraph (2) of section 1401(b) of the Internal Revenue Code of 1986, as added by section 9015 of the Patient Protection and Affordable Care Act and amended by section 10906 of such Act, is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2013, the $250,000 and $200,000 amounts under subparagraph (A) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2012' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $1,000.''.

(ii) CONFORMING AMENDMENT.—Subparagraph (C) of section 1401(b)(2) of such Code, as added by section 9015 of the Patient Protection and Affordable Care Act and redesignated by subparagraph (A), is amended by inserting ''(after the application of subparagraph (B))'' after ''subparagraph (A)''.

(C) REPLENISHMENT OF GENERAL FUND THROUGH RESCISSION OF CERTAIN STIMULUS FUNDS.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 116), from the amounts appropriated or made available under division A such Act (other than under title X of such division A), there is rescinded $1,600,000,000 of any remaining unobligated amounts. The Director of the Office of Management and Budget shall apply the rescission in a pro rata manner with respect to such amounts. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

Ms. MURKOWSKI. Madam President, the amendment I offer is simple. What we are doing is indexing for inflation the Medicare tax increase the majority has levied on the American people through this health care bill. Under the bill that is now law, Medicare taxes are going to jump .9 percent for certain income groups. This is about an $86 billion tax hike. My amendment aim is to contain the damage by indexing for inflation the wage thresholds for those subject to the tax increase. The amendment is very similar to what my friend from Kansas offered not too many amendments ago. It is a reminder that we have gone down this path before with the AMT. The AMT was not indexed for inflation. Today we have nearly 30 million taxpayers hit by the AMT tax. We deal with it every year through the AMT patch. I wish to make sure we are not repeating history.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, as I said on the Brownback amendment, there is much to be said for indexing this provision. It is true we don't want to get back into the situation we now face with the AMT because the AMT was not originally indexed. Unfortunately, the current amendment will be offset with unspent, unallocated mandatory spending of stimulus funds. Unemployment is still hovering close to 10 percent. There is growing evidence the recovery package is working. I don't think we want to stifle the stimulus now. Over the last 6 months of 2009, the economy grew at an annual rate of 4 percent. The fourth quarter grew at a higher rate, but that was due to an inventory situation. By and large, it is not proper to offset this with stimulus dollars. We will find some time at a later date to deal with this issue. I do think it is a serious issue.

I raise a point of order that the Murkowski amendment violates section 313(b)(1)(c) of the Congressional Budget Act.

Ms. MURKOWSKI. Pursuant to section 904 of the Congressional Budget Act of 1974 and section 4(g)(3) of the Statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of the amendment, and 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 motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

The yeas and nays resulted—yeas 42, nays 57, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—42

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

NAYS—57

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

NOT VOTING—1

Isakson

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Texas.

AMENDMENT NO. 3634

Mrs. HUTCHISON. Madam President, I call up amendment No. 3634.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 3634.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike the 2-year limitation on the small business tax credit for taxable years after the Exchanges open)

At the end of subtitle A of title I, insert the following:

SEC. 1006. REPEAL OF TAXABLE YEAR LIMITATION ON SMALL BUSINESS TAX CREDIT.

(a) IN GENERAL.—Section 45R of the Internal Revenue Code of 1986, as added by section 1421 of the Patient Protection and Affordable

Care Act and amended by section 10105(e) of such Act, is amended—

(1) by striking ''in the credit period'' in subsection (a),

(2) in subsection (e), by striking paragraph (2) and redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively,

(3) in subsection (g), by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively, and

(4) by striking ''to prevent the avoidance of the 2-year limit on the credit period through the use of successor entities and'' in subsection (i).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Patient Protection and Affordable Care Act to which the amendments relate.

Mrs. HUTCHISON. Madam President, our small businesses are struggling. We all know that. We are trying to encourage small businesses to hire and help our economy. Yet when this bill passes, our small businesses are going to have a tax credit if they offer health care to their employees, but what we are not telling the American people is that tax credit is limited to 2 years once the bill becomes fully effective. When the exchange opens, then the tax credit will last for 2 years.

My amendment assures this is not going to be a bait-and-switch to our small businesspeople; that they will be able to have the tax credit permanently if they offer health care to their employees and they are a business of 25 employees and under.

I hope our colleagues will support this amendment to help these small businesses. That is what will encourage them to offer health care to their employees.

The PRESIDING OFFICER (Mr. BURRIS). The Senator's time has expired.

The Senator from Montana.

Mr. BAUCUS. Mr. President, in an effort to help small business, there are many provisions in this bill to accomplish that result. One is $37 billion in tax credits that are in this bill already for small business.

I do agree with the Senator from Texas, though, that it would be better if the credit, which is available for 2 years beginning in 2014 when the exchange is up and running, was extended. That would be my preference. But right now, in 2010, we are short on money, frankly, and we can't find all the money that is necessary to make that permanent to accomplish the wishes of the Senator from Texas. But I do say I am sympathetic with extending that 2 years, and we will work to try to find ways in the future to accomplish that.

In the meantime, I move to table the amendment, and 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 motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) is necessarily absent.

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

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

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 103 Leg.]

YEAS—55

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

NAYS—43

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

NOT VOTING—2

Bayh	Isakson

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 3712

Mr. CORNYN. Mr. President, I ask unanimous consent to call up amendment No. 3712, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 3712.

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

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

The amendment is as follows:

(Purpose: To give States incentives to reduce fraud, waste, and abuse in their Medicaid programs)

At the end of subtitle C of title I, add the following:

SEC. 1207. FMAP REDUCTION FOR HIGH PAYMENT ERROR RATE.

Section 1905 of the Social Security Act, as amended by section 1202(b) of this Act, is amended by adding at the end the following:

''(ee) DECREASED FMAP FOR HIGH PAYMENT ERROR RATE MEASUREMENT.—Notwithstanding any other provision of this title, beginning January 1, 2014, in the case of a State for which the payment error rate measurement (commonly referred to as 'PERM') is at least 10 percent, the Federal medical assistance percentage otherwise applicable to the State with respect to payments for medical assistance for individuals enrolled in the State plan under subclause (VIII) or (IX) of section 1902(a)(10)(A)(i) or subclause (XX) or (XXI) of section 1902(a)(10)(A)(ii) shall be reduced by 1 percentage point until the date on which the Secretary determines that the PERM for the State is below 10 percent.''.

Mr. CORNYN. Mr. President, this amendment will lower the deficit while attacking the scourge of fraud and waste in our Medicaid Program. The $3.4 trillion Medicaid Program is riddled with waste, fraud, and abuse, and improper repayment rates that range roughly in the 10-percent range for the Nation. Some States and some cities are even worse.

In Washington, DC, 19.3 percent of Medicaid payments are classified by Health and Human Services as improper payments. In Oregon, one out of every five people on Medicaid is not even eligible to be on Medicaid. That is 20 percent.

This amendment takes the $434 billion that we are putting into the health care coverage, much of it in Medicaid, and it provides a financial incentive for the States to reduce their improper payment rates.

Since the Medicaid expansion does not go into effect until 2014, this provides a more than adequate period of time for the States to comply with bringing their improper payment rates down under Medicaid and thus to avoid any penalty under this amendment.

I ask my colleagues for their consideration.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, we all want to fight fraud, waste, and abuse. In fact, there are many provisions in this bill which so provide. To add to that, when we negotiated the bill, the White House came up with even stronger provisions. They have the screening, time to check for payments, and so forth.

I talked with the Senator from Florida, Mr. LEMIEUX, who also has good ideas. I pledge to him to do what we can to get some of that passed this year. However, the amendment before us is much too punitive. It is arbitrary in its numbers. I think it would be counterproductive, especially at a time when States are already struggling with their Medicaid Programs. I think it would be inappropriate for us to lay this arbitrary punitive measure on them.

Mr. GREGG. Mr. President, if the Senator will allow me to make a quick statement just for the edification of our colleagues.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. This is our last amendment, I believe and hope—genuinely

hope. After this amendment is completed, I understand there will be a colloquy between the ranking member of the Finance Committee and the chairman of the Budget Committee. Then we will proceed to raising points of order relative to the bill.

Mr. BAUCUS. And other measures.

Mr. GREGG. Then we will proceed to final passage at 2 o'clock. That is the general outline of where we are.

Mr. BAUCUS. I might reconfirm, this is the last amendment. There will be points of order raised and other business will transpire before we get to the points of order, which I understand will begin about quarter of 2. We are going to finish at 2 o'clock. We are right there. It is going to work.

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

Mr. CORNYN. Is there time remaining?

The PRESIDING OFFICER. All time has expired.

Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill 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 Georgia (Mr. ISAKSON).

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

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 104 Leg.]

YEAS—57

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

NAYS—41

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

NOT VOTING—2

Byrd	Isakson

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, that was the last vote on amendments. I wish to repeat that statement: That was the last vote on amendments.

Mr. UDALL of Colorado. Mr. President, I was unable to cast a vote for rollcall No. 99 in the second session of the 111th Congress—the motion to waive the Budget Act point of order against Vitter amendment No. 3665 to H.R. 4872, the Health Care and Education Reconciliation Act. Had I been present, I would have voted ''no'' on the motion.

Mr. KAUFMAN. Mr. President, I was unfortunately off the Senate floor when the Senate conducted rollcall votes Nos. 68 and 101 and, therefore, missed those recorded votes. I wish to state for the record that had I been prsent for rollcall vote No. 68, I would have voted ''yea'' on the motion to table Senate amendment No. 3582, and if I had been present for rollcall vote No. 101, I would have voted ''yea'' on the motion to table Senate amendment No. 3710.

LAWFULLY PRESENT IMMIGRANTS

Mr. MENENDEZ. Mr. President, I rise to speak about an issue affecting some of the most vulnerable families living in our society. Under health reform, tax credits are provided to families between 100 percent and 400 percent of the Federal poverty line in order to purchase health insurance. Families below 133 percent of the poverty line become eligible for Medicaid. Certain lawfully present immigrants however are not eligible for Medicaid due to their immigration status. Fortunately, health reform does not leave them in the cold. Mr. Chairman, am I correct in saying that lawfully present immigrants, who are otherwise ineligible for Medicaid, are eligible for premium tax credits in the exchange?

Mr. BAUCUS. That is right. Due to the Senator's leadership and hard work, we were able to make sure those here legally had a place to find affordable health coverage.

Mr. MENENDEZ. I believe it is important to clarify that the Senate bill's treatment of certain lawfully present immigrants as having an income at 100 percent of the Federal poverty level was intended to pertain only to their eligibility for the affordability credit—not the size of the actual tax credit. Plainly put, a legal immigrant whose income is at 50 percent of the poverty line should not have to pay the same premium amount as someone whose income is at 100 percent of the poverty line. Was this the intent of this provision in the health reform legislation?

Mr. BAUCUS. The Senator is exactly right. The health reform legislation that was signed into law allows immigrants who are here lawfully, who are otherwise ineligible for Medicaid to receive tax credits in the exchange. However, the size of those tax credits should be based on the families' actual income, not an artificial level of 100 percent of the poverty line. I expect this provision will be implemented as such. I look forward to working with Senator MENENDEZ to ensure that these families receive access to affordable health insurance coverage.

Mr. MENENDEZ. I thank the Chairman.

Mrs. FEINSTEIN. Mr. President, I rise today to speak about a specific section of the health insurance reform bill.

There has been some concern that language in the bills could be misinterpreted to create new causes of action or claims that would interfere with existing State medical malpractice laws.

As Representative HENRY WAXMAN clarified on the floor of the House of Representatives, it has never been the intent of the bill to create any new causes of action or to preempt any State medical malpractice law.

Section 10201(j) of H.R. 3590, which added Section 3512 to subtitle F of title III of the act, calls for the Comptroller General to conduct a study of whether the development, recognition or implementation of any guideline or other standards under a list of enumerated sections of the Senate bill would result in a new cause of action or claim.

It is important that this language requesting such a study not be interpreted in any way as creating any inference or implication that the enumerated sections of the bill will create any new action or claim.

Additionally, it is important to understand that Congress has no intent in this legislation to modify or supersede any State medical liability law that governs legal standards or procedures used in medical malpractice cases.

Mr. LEAHY. Mr. President, in addition to important improvements to the health reform bill President Obama signed into law this week, the reconciliation measure before the Senate also provides a significant investment in higher education.

I have always strongly believed in the importance of a college education. Unfortunately, in recent years, average college tuition rates have increased faster than inflation, and have far outpaced student financial aid. Skyrocketing tuition is making it increasingly difficult for families to afford higher education. Many students are forced to take on significant debt, and too often are not able to complete college because of soaring costs.

Especially during these difficult economic times we need to be doing more to address the rising costs of higher education and the growing need for student financial aid. I am glad to see that the measure in front of us today streamlines our student lending system and no longer subsidizes banks to lend to students risk free. By requiring that all future student loans be made directly to students through the Federal Government, this bill will save $61 billion over 10 years. Not only will this provision save the government money,

but the Direct Loan Program is projected to save students millions of dollars in fees and interest payments.

A portion of the savings from this bill will be used to fund the Pell Grant Program, which is facing a significant shortfall this year. The measure provides $13.5 billion in mandatory appropriations for Pell grants, and will provide additional mandatory funding to the program by tying increases to inflation. Combined with the investment in Pell grants in the American Recovery and Reinvestment Act last year, which I was proud to support, the maximum Pell grant award will double as a result of this bill. Unfortunately, Pell grants cover less than half as much tuition at a public college or university as they did just a few decades ago, so a significant investment in the program's growth is necessary to help the more than 8 million students who participate. I met with students who attended school in Vermont this week and they shared their stories about how important this program was to them, and how it was critical to their ability to attend college. No student should be denied the opportunities of a college education because of financial burdens.

I am also pleased the changes to student lending in the reconciliation bill will help nonprofits to provide important loan servicing and counseling services to students and their families. Several States have established not-for-profit State agencies to administer financial aid and to provide their residents and students attending their schools with quality counseling services and low-cost loans. Vermont pioneered this movement by creating the Vermont Student Assistance Corporation, VSAC, more than 40 years ago. Since then, VSAC has worked hard to establish and maintain strong and longstanding working relationships with Vermont's higher education institutions as well as K–12 schools to provide outreach programs critical to the economic vitality of Vermont.

The reconciliation bill will prohibit anyone other than the Federal Government from originating new Federal loans, but unlike the lending measure the House passed in July, the reconciliation package will help nonprofits continue to provide important college access and completion activities. This measure will double the funding directed to Vermont, which will help VSAC continue to counsel students and their families about entering and completing college. Additionally, the reconciliation legislation will allow nonprofits to contract with the Federal Government to continue to service loans at a competitive market rate.

I have heard from countless Vermonters about the invaluable services VSAC provides to help students attend and complete college. Just recently, a father of twins attending college in Vermont contacted my office to share with me the support that VSAC provided. If not for VSAC, he said, he did not think he could have made it through the paperwork or learned about the scholarships that were available.

I am glad that Congress has recognized the importance of these services in States across the country and will allow for a continued role to help more students access and complete college. I look forward to continuing to work with VSAC to ensure their place as an important part of students' college experience.

Mr. BAYH. Mr. President, included within this budget reconciliation bill are provisions that make significant changes to the federal student loan programs. Like others, I strongly support the provisions that increase funding for Pell grants. These grants form the foundation of Federal student aid, and do much to increase college access.

Other provisions in the bill and the Higher Education Act also are important to students. As students increasingly look to Federal student loans to cover the costs of their college education, they are in need of federally supported services that help students to make well-informed financial decisions. In this bill, section 2103 extends and roughly doubles the authorization, to $150 million annually, for the college access challenge grants, CACG. The CACG authorizes States who receive funding under the CACG to provide subgrants to guaranty agencies to assist students and families with such services as early awareness and outreach, financial literacy, debt management, and loan counseling to impact the ability of students to successfully manage their student loan obligations and start off their postcollege and professional lives on the right foot. Congress should encourage the States to continue to work with their designated guarantors to use the opportunity of continued authorization and increased funding of the CACG to utilize the expertise of guaranty agencies in providing such services. I agree with the comments of the chairman of the House Committee on Education and Labor during House consideration of this bill—Congress intends that states receiving grants under the college access challenge grant program should partner with entities, including guaranty agencies and their nonprofit subsidiaries, to provide financial literacy, delinquency and default aversion activities, and other loan counseling activities for borrowers.

I also share the House chairman's view that the Secretary of Education has existing tools to ensure students have access to borrower and school services for financial literacy and default prevention. Under the Direct Loan Program, the Secretary is authorized to contract with guaranty agencies for services that ensure the successful operation of the program. As we move to require all institutions of higher education to participate in the Federal Direct Loan Program, students should continue to have access to the borrower and school services provided so well over the past 40 years by guaranty agencies. In my State of Indiana, our guaranty agency has a distinguished history of providing comprehensive services to help borrowers repay their loans and avoid default. Along with the House chairman, I, too, expect the Department of Education to ensure the availability of these services by exercising the Secretary's authority to contract with guaranty agencies for the provision of these services for students and schools.

Mr. DURBIN. Mr. President, our colleagues on the other side of the aisle have confused some statements made by the President and made by me regarding whether the new health law will cause premiums to go down.

The President has spoken forcefully about the impact of the new reform law on health insurance premiums. He has contrasted the effect of reform with the effect of doing nothing. He made it clear that if we passed a reform bill, premiums would go down compared to the status quo of not enacting a reform law.

A couple of weeks ago, I said on the Senate floor that no one claims premiums will go down tomorrow when we pass this legislation. I was speaking in absolute terms. Premiums have been rising at a high and unsustainable rate. With these reforms, premiums will rise more slowly.

The President and I were saying the same thing, using different words. The point is the same. With this new law, American families and businesses can have hope that their premiums will not rise as fast as they have been in the past.

The days of 39 percent premium increases, as we have seen in California, will be over once this law is fully implemented.

The days of 60 percent premium increases, as we have seen in my home State of Illinois, will be over once this law has been carried out.

And if we repeal this new law, as the Senators on the other side of the aisle advocate, premiums will continue to rise at an unsustainable rate with spikes like those we have seen this year.

Senators on the other side of the aisle are right to ask what will happen to premiums.

Every American wants to know, ''What is going to happen to the cost of my healthcare?'' And they are right to ask that question.

But the obstructionists and naysayers on the other side of the aisle are wrong when they oppose this bill and the new law based on the false claim that it will cause premiums to rise faster than the status quo. That is simply not true.

And you don't have to take my word for it. Just ask the nonpartisan Congressional Budget Office—the congressional ''umpire'' when it comes to questions of what legislation will cost or save.

Early in the health reform debate, throughout most of last year, we had useful data from the Congressional Budget Office—but it was not definitive. It was easily distorted by the opponents of reform and the defenders of the insurance companies, who want to stop all action and allow premiums to be increased by 10, 20, 39, 60 percent each year.

The initial CBO reports compared premiums in today's market with the cost of a more generous health plan that is likely to be offered in the insurance exchanges of a reformed market.

That is not a fair comparison, but it is all we had.

It showed that people would pay more if they chose better coverage. But it didn't clearly say that for coverage comparable to what is available today, premiums would be lower.

And so there was confusion.

In January, when no one was paying attention and the debate on the Senate floor had shifted to jobs, we received some important additional information from CBO.

The new data, from the people who know the numbers best at CBO, backs our conclusion that the Senate health reform bill will reduce the premiums people will pay for health insurance, compared to current law.

That clear answer came in response to a request from the senior Republican Senator from Maine, Ms. SNOWE.

At the request of Senator SNOWE, CBO estimated the premiums for a Bronze plan under the Senate reform bill.

Bronze plans will cover roughly the same proportion of an individual or family's total health care costs as the average plan sold in the individual market today.

So using Bronze plans to compare the Senate reform bill to current law provides an ''apples to apples'' comparison. It tells you what premiums you can expect if the bill passes, compared to what premiums you can expect for a similar policy if the bill is defeated. That is a fair comparison.

Here's what CBO tells us:

A Bronze plan in 2016 will cost an individual between $4,500 and $5,000 a year.

Earlier, CBO estimated that under current law, with no health reform in place, an average plan in 2016 will cost an individual $5,500.

So, under reform, the cost of a typical plan will be considerably less than the cost if we do nothing. In fact the savings will be roughly $500–$1,000 a year.

We see the same story for family coverage. According to CBO, under the Senate reform bill, a family can expect to pay between $12,000 and $12,500 for family coverage. If we do nothing, a family can expect to pay $13,100.

That is a savings of $600–$1,100 a year for American families.

So now we have the answer that many Senators, and many Americans, sought.

CBO's analysis provides a fair assessment of the effect of reform on the individual and family pocketbook.

And the answer is savings of $500 to $1,100 a year, from 2016 on.

But only if we preserve the reforms the President signed into law.

And that is just the direct effect on premiums. Millions of Americans will be eligible for subsidies that will dramatically reduce their costs beyond these basic reductions available to everyone.

But even people who don't receive subsidies will have lower premiums. Lower than if we don't implement the reform law.

Not because of assistance from the Federal Government, but because health reform legislation will give people buying power and will take the necessary steps to rein in health care costs.

The changes included in the new law will make a difference in the health care system and those changes will reap benefits for all of us.

This is confirmation that the reform bill represents an important victory for Americans struggling with the high cost of health insurance.

And now we can put a value on the savings: $500 to $1,000 a year for individuals and $600 to $1,100 a year for families.

The Senators on the other side of the aisle haven't been talking about this report, which was provided by the CBO to a member of their own party, because they don't want the American people to know that premiums will go down relative to doing nothing.

So instead, they try to find alleged discrepancies between the President and me that simply do not exist on this issue.

The evidence is clear. The Congressional Budget Office has weighed in. The facts are plain.

The health reform bill will reduce premiums compared to the do-nothing outcome pursued by the obstructionists.

Similarly, there has been some confusion about the magnitude of the tax cuts in this bill.

The tax cuts in the reform bill passed by the Congress and signed into law by the President are the largest middle-class tax cut for health care in the history of our Nation.

No Congress has provided greater tax assistance to American families and individuals and small businesses to help them afford the cost of health care.

There have been larger tax cuts unrelated to health care—not all of them wise.

But American businesses and families need help to deal with the high cost of health care, and this Congress has responded.

The new law, combined with the improvements in the reconciliation bill, will provide refundable tax credits to people with incomes up to 400 percent of the poverty level—around $88,000 for a family of four—so that they can afford their health insurance premiums.

Ordinarily, a tax credit is provided when you file your tax return after the end of the year. The new law allows the credit to be paid to the insurer month by month, so that you can afford your monthly premiums. That is a good thing if you live month to month and can't wait until the end of the year to receive the tax credit and still pay your monthly premiums.

The new law also provides tax credits to small businesses—available starting right now—to help them pay for health insurance.

These provisions will give nearly $500 billion of tax cuts and cost-sharing assistance to middle-class Americans. That is what makes this the largest middle-class tax cut for health care in the history of our nation.

We received no help from the Members on the other side of the aisle in enacting these tax cuts. This Democratic Congress did it anyway. We provided the largest middle-class tax cuts for health care ever, and we are proud to have done so.

Mr. HARKIN. Mr. President, we are concluding an historic week here in the Nation's Capital and in the U.S. Senate. Health reform is no longer a bill. It is the law of the land.

Just as the history books remember 1935 as the year FDR signed Social Security into law, and 1965 as the year Lyndon Johnson signed Medicare into law, they will now remember 2010 as the year President Barack Obama signed comprehensive health reform into law.

Of course, not only is health reform the law of the land, but, thanks to the reconciliation bill, we have also passed a landmark reform of the student lending program, permitting a major increase in Pell grants.

Appropriately, Members have cited the historic contributions of key leaders here in the Senate, including Majority Leader REID, Senator CONRAD, Senator BAUCUS, Senator DODD, and, of course, for his commitment to this cause spanning decades, the late Senator Ted Kennedy.

It is also important to etch into history, in our CONGRESSIONAL RECORD, the names of Senate staff members who have done so much to get us to this point. I have often cited the old saying that ''Senators are a constitutional impediment to the smooth functioning of staff.'' We laugh at that, but we also know that there is a lot of truth. Were it not for skilled, talented, dedicated staff members, willing to spend so many evenings and weekends away from their families, we would not have arrived at the historic triumph of passing comprehensive health reform.

I am especially grateful to the extraordinary efforts of staff members on the Committee on Health, Education, Labor and Pensions, which I chair. I would like to thank Dan Smith, Pam Smith, Michael Myers, Mark Childress, David Bowen, Jenelle Krishnamoorthy, Connie Garner, Portia Wu, John McDonough, Topher Spiro, Stacey

Sachs, Tom Kraus, Terri Roney, Craig Martinez, Taryn Morrissey, Brian Massa, Andrea Harris, Caroline Fichtenberg, Bethany Little, Luke Swarthout, David Johns, Maria Worthen, Thomas Showalter, Paulette Acevedo, Abby Bartine, Ches Garrison, Sarah Whitton, Robin Juliano, Lory Yudin, and Evan Griffis.

On the staff of Majority Leader REID, I want to thank Gary Myrick, Kate Leone, Jason Unger, Carolyn Gluck, Jacqueline Lampert, Bruce King, David Krone, Rodell Molineaux, and Randy DeValk.

On Senator DODD's staff, I thank Jim Fenton, Tamar Magarik Haro, Monica Feit, Brian DeAngelis, Madeline Gitomer, and Averi Pakulis.

On Senator BAUCUS's staff: Liz Fowler, Bill Dauster, Russ Sullivan, John Sullivan, Scott Mulhauser, Kelly Whitener, Cathy Koch, Yvette Fontenot, David Schwartz, Neleen Eisinger, Chris Dawe, and Hun Quach.

On Senator CONRAD's staff: Mary Naylor, John Righter, Joe Gaeta, Robyn Hiestand, Matt Mohning, Purva Rawal, Sarah Kuehl, Joel Friedman, Jim Esquea, and Jennifer Hanson-Kilbride.

On my personal staff, I want to thank Beth Stein, Lee Perselay, Kate Cyrul, Bergen Kenny, Dan Goldberg, Lindsay Jones, and Jim Whitmire.

Mr. President, I also want to salute the great skill and professionalism of the Senate Parliamentarian Alan Frumin, as well as Assistant Parliamentarians Elizabeth MacDonough, Peter Robinson and Leigh Hildebrand.

In addition, we owe an enormous debt of gratitude to the staff of the Congressional Budget Office. They are an extremely knowledgeable and capable team, willing to work late nights and through the weekends to model and estimate the budgetary effects of the complex provisions in this bill.

Finally, I want to thank staff members in the Senate Legislative Counsel's office. They also worked many long hours to assist my HELP Committee in drafting the language and working out the technical issues in the bill.

To all of these dedicated members of our Senate family, I say thank you for your service to this body, and thank you for your selfless service to our Nation.

Mr. DODD. Mr. President, I wish to spend a couple of minutes to express my gratitude to a lot of people. I begin by thanking my colleagues here, both Democrats and Republicans. Obviously, all of us would have liked to have had a health care bill that was more than a partisan vote. It didn't turn out that way. I am glad we ended up with the result we did.

I thank the members of the HELP Committee on which I serve, both Democrats and Republicans. Although we didn't end up with a bipartisan vote on that committee, there was a very vibrant, active, civilized discussion over many days last summer regarding the HELP Committee's portion of this health care product. Obviously, having been the acting or temporary chair of the committee in the absence of our friend and colleague from Massachusetts who was obviously ill and could not be there, I begin by thanking TOM HARKIN. You have heard people talk about him already. He has taken over the reins of that committee and has done an excellent job. I thank BARBARA MIKULSKI, my long-time friend and colleague, who did a tremendous job in dealing with various aspects of the health care debate, as TOM HARKIN did, JEFF BINGAMAN, PATTY MURRAY—again, seasoned members of the committee and Members of this body who have contributed to many pieces of legislation over the years. JACK REED, my neighbor and great friend from Rhode Island, was tremendously helpful on the committee, as well as BERNIE SANDERS of Vermont, SHERROD BROWN of Ohio, who played a critical role working with people like Senator HAGAN of North Carolina, working with SHELDON WHITEHOUSE, who was on our committee at the time and played a critical role in fashioning our public option. JEFF MERKLEY and BOB CASEY were very productive and serious members of the committee effort. AL FRANKEN and MICHAEL BENNET have since joined the committee, and SHELDON WHITEHOUSE has moved on. But I want the record to reflect my deep appreciation for their work.

Let me also thank MIKE ENZI and the people such as TOM COBURN and others, JUDD GREGG, from the committee. I can't go down the whole list, but the Republicans on the committee, while they don't necessarily like to admit it, made a contribution to the bill. One hundred sixty-one amendments—I know they are tired of hearing me talk about over the last several months—were their additions to the HELP Committee final product.

I have talked about MAX BAUCUS, my friend. We have served together, along with TOM HARKIN in this Chamber and the other, for 35 years together. The work of the Finance Committee, which bore a tremendous share of this responsibility, dealing with very complicated issues that are within the jurisdiction of that committee, was tremendously important. I won't go down and list all the members of the Finance Committee. In fact, we had several on our committee who served both on Finance and on the HELP Committee: JEFF BINGAMAN on the Democratic side; I know there were several Republicans as well who filled a dual role by serving on both committees.

I thank my friend from Montana as well for his work. He has been recognized and acknowledged by many and deservedly so over the last number of days.

I commend, if I may, the staff members of the Finance Committee, beginning with Liz Fowler and the group I ask unanimous consent to include for the RECORD. They did a wonderful job. Senator BAUCUS has referred to them already, but I also wish to thank them this afternoon for their work.

On the Budget Committee, again you have heard Senator KENT CONRAD talk about the Budget Committee staff. I ask unanimous consent that their names be printed as well at this juncture in the RECORD, if I may.

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

FINANCE COMMITTEE

Liz Fowler, David Schwartz, Yvette Fontenot, Neleen Eisinger, Shawn Bishop, Chris Dawe, Andrew Hu, Bill Dauster, Russ Sullivan, Cathy Koch, Jon Selib.

BUDGET COMMITTEE

Sarah Kuehl, Purva Rawal, Jim Esquea, Mary Naylor.

Mr. DODD. I want to make particular reference to the members of my staff, beginning with Jeremy Sharp and Tamar Magarik Haro who did a wonderful job. Jeremy Sharp's father is former Congressman Phil Sharp. He was part of the class with MAX BAUCUS and TOM HARKIN and me, HENRY WAXMAN and GEORGE MILLER, who played a critical role in the debate in the House. Both Tamar and Jeremy were tireless in this effort, going back many months. I am deeply grateful to them. Jim Fenton is my legislative director and played a very important role as well in those efforts.

Then, of course, there are the other members of the HELP Committee, many of whom, of course, were staff members of Ted Kennedy. I inherited their expertise, their knowledge, their great abilities when Ted was laid up. They continued to work with us, beginning with Carey Parker who is, of course, legendary in this institution, having served with Senator Kennedy since the day he arrived 47 years ago. While not directly on the HELP Committee staff, I can't tell you what a critical role Carey Parker played time and time again during the rough spots. Michael Myers, Pam Smith, Connie Garner, Stacey Sachs, David Bowen—all were tremendously influential in the process. Mark Childress, who worked with Tom Daschle before, was at the White House for a while, came back up and stayed with us on that effort. Mark was invaluable in understanding the rhythms of the Senate, understanding the White House, and we are deeply grateful. Jenelle Krishnamoorhty, who worked with TOM HARKIN, I have gotten to know her very well, and the members of TOM's staff. I want Jenelle to know how much I appreciate her work. She did a tremendous job for us as well.

I want to thank the leader's staff as well, who were so valuable to us: Kate Leone, obviously; Carolyn Gluck; Bob Greenawalt; Bruce King; Randy Devalk; Jacqueline Lampert; and Gary Myrick, who we see here all the time pacing this Chamber at all hours of the day and night, keeping an eye on the movements of the Senate and what is occurring, keeping the leader well informed, about as knowledgeable as

anyone you will meet in understanding exactly what is happening at all moments. To Gary and the leader's staff, I apologize if I left anybody out, but I thank them for their work as well.

This bill also included the work on education issues. There were a number of people who played a very important role in that. In my office: Maddy Gitomer, Averi Pakulis, Joe Caldwell, and Anna Staton were all part of our efforts in that regard. I should have mentioned earlier Tom Kraus, Topher Spiro, and Andrea Harris who worked on HELP Committee efforts as we moved forward on the bill.

Those were a lot of names I have just recited. I said them so quickly that they may fly by. It hardly reflects the recognition they deserve for the time and effort they have put in. They will never be standing before a bank of microphones or getting their picture taken, probably won't have articles written about them and what they did or didn't do during their tenure in the Senate. But this place only functions and runs, the floor staff who are here and the respective cloakrooms who do the work every single day that make this institution work as well as it does, spending the hours, the weekends crafting ideas and compromises that allow us to move forward.

While there are a lot of people deservedly, in a very public way, getting credit for the work that has transpired over these many months, I didn't want this moment to pass without at least expressing my gratitude to them and others whose names I, unfortunately, have not mentioned, who have made this day possible.

To them, to my colleagues, to Senator REID, Speaker PELOSI, House Members who valiantly took up a Senate-passed bill that they had strong reservations about and yet understood the value of the moment.

And to President Obama, who understood the importance of this issue and insisted it come up. I remember Daniel Patrick Moynihan. MAX BAUCUS and I served with Dan Moynihan, and MAX had served with him on the Finance Committee when he chaired that committee, a very wise man who understood the movements of the executive branch and the legislative branch. He once told me that American Presidents, whether they get one or two terms, only get somewhere between 18 and 24 months to do anything really meaningful. It is those first days from January 20, Inauguration Day, to maybe as late as Election Day of the midterm elections in their first term. If they are going to do anything really important, that is the window in which they have to try. After that, it gets harder. You campaign for reelection. If you are reelected, you are a lame duck. Your ability to affect huge issues narrows.

I thank our President. Whether you agree or disagree with his politics or his policies, the fact that he took on a major issue that had been crying out for decades for resolution is testimony to his willingness to put a political administration, a political campaign on the line. For those who work with him, from his chief of staff to his advisers on these various matters, history will be and should be deeply grateful to President Barack Obama for having the courage to take up a big issue that deserved and needed resolution by the Congress for the American people. Whatever else transpires in the remaining tenure of his office, whether he serves one term or two, in large measure he will be defined by his willingness, his courage to raise this issue, when many others suggested this was a worthless task to take on, we couldn't succeed, he would be wiser to follow a course where less significant issues might be at stake.

So to the President, I thank you immensely for having the courage to take this on. I believe in the long call of history the American people will thank you as well for having the courage to bring up this important issue.

With that, again, this is one of those very few rare days we get in this institution historically, but it is one in which I am deeply proud to have been involved. I thank all who made it come to pass.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I had the great privilege of observing Senator DODD as he stepped into the breach for Senator Kennedy and did an extraordinary job—hour after hour after hour—listening to the comments, the suggestions of both sides of the aisle. I think about 400 amendments were filed, and 161, or so, were accepted. In that process, his leadership was extraordinarily effective and critical. So the praise he rightfully accords to others he must share in a major way. We would not be here today if Senator DODD had not stepped in while simultaneously also doing financial reform and getting us to this moment.

So I say to the Senator, thank you.

I concur, obviously, with his comments about Senator BAUCUS and express the respect I have for Senator BAUCUS. As chairman of the Finance Committee, MAX had an extraordinarily important role to play, and he played it with great wisdom and great judgment throughout.

Again, we are here today because of these two gentlemen, and my colleagues in the House.

I, too, commend the President. It would have been easy at any time in this process to fold up the book and say: Well, I have joined the ranks of all my predecessors since Franklin Roosevelt. I have tried and have not succeeded. I think at moments he might have come tantalizingly close to that conclusion. But he pressed on. Ultimately, it was his decision more than anyone else to try to do this that got it done.

As Thucydides said: The bravest of the brave are those who, seeing both the glory and the danger, go forth to seize it. These gentlemen—particularly the President—saw the danger and the glory and refused to retreat and went forward. We have a historic victory today. But our work is not done.

Mr. BYRD. Mr. President, I support the Health Care and Education Reconciliation Act. America has 47 million people without health insurance, including more than 240,000 West Virginians, and the number grows every week. More than half of West Virginia's uninsured are between the ages of 19 and 49. Health care consumes more than 15 percent of our national gross domestic product. Health care reform should matter to every West Virginian.

When the health care debate began last year, I urged the Senate to forgo using the budget reconciliation process to shield a comprehensive reform bill from debate and amendment. I am pleased that the Senate heeded that call, and opted to consider the Patient Protection and Affordable Care Act under the cloture rule and the regular procedures.

When amendments to that measure were proposed by the President, to be enacted through the budget reconciliation process, I insisted that those amendments be considered in a manner consistent with the Congressional Budget Act and section 313 of that act, the Byrd rule. The reconciliation bill must not address extraneous matter, and it must—absolutely must—reduce the deficit. This measure meets that test. I applaud the Senate for bringing the health care debate to a close in a manner that is balanced, fair, and equitable. The rights of the minority have been protected, and the Senate has upheld its historical role as a forum for debate and amendment.

While this bill as passed may not satisfy the individual concerns of each and every constituent or member of Congress, it does begin to satisfy the growing needs of millions of Americans who find themselves without access to the medical services and attention they need. Access to proper health care for every American citizen should not only be held as a necessity, it should be considered the commensurate right of any and every citizen of the mightiest and most advanced Nation the world has ever known.

Mr. President, in order to clarify for the record, I want to make it known that section 1556 of the Patient Protection and Affordable Care Act is intended to apply to all claims filed after January 1, 2005, that are pending on or after the date of enactment of that act.

It is clear that the section will apply to all claims that will be filed henceforth, including many claims filed by miners whose prior claims were denied, or by widows who never filed for benefits following the death of a husband. But section 1556 will also benefit all of the claimants who have recently filed a claim, and are awaiting or appealing a decision or order, or who are in the

midst of trying to determine whether to seek a modification of a recent order.

Section 1556 applies immediately to all pending claims, including claims that were finally awarded or denied prior to the date of enactment of the Patient Protection and Affordable Care Act, for which the claimant seeks to modify a denial, or for which other actions are taken in order to modify an award or denial, in accordance with 20 CFR 725.309(c) or 725.310. Section 1556 applies even if a final order is modified, or actions are taken to bring about the modification of an order, subsequent to the date of enactment of the Patient Protection and Affordable Care Act, in accordance with the sections of Part 725 that I mentioned. I look forward to working to ensure that claimants get a fair shake as they try to gain access to these benefits that have been so hard won.

Mrs. HAGAN. Mr. President, I rise today to speak in support of the education provisions in H.R. 4872, the Health Care and Education Affordability Reconciliation Act of 2010.

Over 40 years ago, Congress passed the Higher Education Act of 1965 with the conviction that no qualified student should be denied the opportunity to attend college simply because of the cost. Who knew that today, in the year 2010, this concern would still ring true? The passage of this legislation will provide greater access to higher education for thousands of American students.

The Health Care and Education Affordability Reconciliation Act represents the single largest investment in college affordability in history. From increasing the maximum Pell grant for low-income students to eliminating excessive subsidies for banks, this bill makes significant improvements to Federal student loan programs. Also, as students and their families look to Federal loans to pay for their post-secondary education, this legislation will allow non-profit student loan servicers in states like mine to continue servicing student loans.

This legislation provides funding for the college access challenge grant program, a program created in the College Cost Reduction and Access Act of 2007. This program was designed to assist states working in partnership with organizations with expertise in improving access to college. These guarantee agencies ensure that students have access to high-quality, affordable higher education. In my home State, the College Foundation of North Carolina serves as our State guarantee agency and plays a critical role in providing students and families with financial literacy, debt management, and loan counseling information.

I fully support the intent of the access and completion challenge grants included in this legislation. They will allow State guarantee agencies to continue the important work that they do. The College Foundation of North Carolina has done extraordinary work in this regard and, as a result, has had a default rate consistently below the national average for the past several years. As a strong advocate for financial literacy education, I can think of nothing more important than ensuring that students and families are armed with the tools they need to understand the dynamics of their student loans.

In North Carolina, we have 58 community colleges and 10 historically Black colleges and universities. The students at these institutions of higher education stand to benefit greatly from the passage of this legislation. A $2.55 billion investment over the next 10 years for Minority Serving Institutions, and more specifically Historically Black Colleges and Universities, is unprecedented. While HBCUs only make up 3 percent of all colleges and universities across the country, they graduate 40 percent of African-Americans with degrees in science, technology, engineering and mathematics, 50 percent of African-American teachers, and 40 percent of African-American health professionals. Community colleges play an instrumental role in our education and workforce systems by providing postsecondary education and job training. We need to keep our community colleges open and thriving. I can't think of a better investment as we encourage people to get the training and skills necessary to get back to work.

Making the commitment to create greater access to higher education, and ensuring that our students have the tools that they need to complete their postsecondary education is at the core of the education provisions in the Health Care and Education Affordability Reconciliation Act, and I am proud to support this legislation.

Mr. FEINGOLD. Mr. President, the Senate has considered dozens of amendments and motions to the reconciliation bill this week. The vast majority of these proposals were flawed, either because they would have undermined the important consumer, business and taxpayer protections in the health care reform bill signed into law Tuesday, or because they were not offset and thus would have reduced the savings in the reconciliation bill.

Some of these proposals, however, did have merit. In particular, amendment No. 3564 by Senator GRASSLEY would have clarified that all congressional employees, as well as certain other Federal employees, must receive their health insurance through the new health insurance exchanges. The health care reform bill already requires ''Members of Congress and congressional staff'' to receive care through the exchanges, but I support efforts to remove any ambiguity about who is covered. Another amendment by Senator GRASSLEY, No. 3569, would have slightly increased reimbursements for rural physicians in Wisconsin, building on important provisions in the new law. And I strongly support efforts to remove the unjustified ''sweeteners'' that remain in the health care reform law; unfortunately, the amendment offered by Senator MCCAIN, No. 3570, to remove those provisions also would have eliminated provisions that were entirely legitimate.

Two other amendments addressed legitimate concerns that Congress is already working to address. I am a cosponsor of legislation to clarify that coverage provided by TRICARE will be treated as minimum essential coverage under the health care reform bill. The amendment offered by Senator BURR, No. 3652, addressed this topic. Similarly, the chairman of the Veterans Committee is already seeking a legislative fix to protect the Second Amendment rights of veterans, as Senator COBURN proposed to do, No. 3700.

However, all of these amendments and motions—even the more appealing sounding ones—had the same purpose: to delay and obstruct reconciliation legislation that will fill the Medicare Part D doughnut hole, make coverage more affordable and in other ways improve the new health care reform law. I opposed these efforts to undermine health care reform, and I will continue fighting to ensure Wisconsinites get the affordable and dependable coverage they deserve.

Mr. BAUCUS. I now ask unanimous consent that Senators GRASSLEY and CONRAD be permitted to engage in a colloquy and inquiries of the Chair for up to 5 minutes.

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

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator state his inquiry.

Mr. GRASSLEY. Mr. President, I have submitted a list of provisions for review by the Chair. It is my understanding that these provisions of the bill have been reviewed and further, if points of order were raised against these provisions, the Chair would have ruled that the various points of order would not have been taken. Is this the opinion of the Chair?

The VICE PRESIDENT. That the points of order would not have been well taken, yes. That is the decision of the Chair.

Mr. GRASSLEY. I thank the Chair. I ask unanimous consent to have printed in the RECORD the list of provisions just referred to.

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

Section 1002—Insurance Mandate
Subject to (b)(1)(D)
Merely incidental to non-budgetary components of the provision

Section 1203—DSH Methodology
Page 70 Line 4 through Page 71 Line 12
Subject to (b)(1)(A)
No budgetary effect

Section 2301—grandfathering
Subject to (b)(1)(D)
Merely incidental to non-budgetary components of the provision

Section 1401—High cost plans tax

Subject to 310(g)

Section 1401—indexing
Pg 84 lines 3 through 17
Subject to (b)(1)(A)
No budgetary impact

LIST OF POINTS OF ORDER SUBMITTED TO THE CHAIR BY SENATOR GRASSLEY

1. A point of order under Section 313(b)(1)(D) of the Budget Act against Section 1002 of the bill.
2. A point of order under Section 313(b)(1)(A) of the Budget Act against Section 1203, page 70 line 4 through page 71 line 12 of the bill.
3. A point of order under Section 313(b)(1)(D) of the Budget Act against Section 2301 of the bill.
4. A point of order against the bill under Section 310(g) of the Budget Act.
5. A point of order under Section 313(b)(1)(A) of the Budget Act against Section 1401, page 84 line 1 through 15 of the bill.

The VICE PRESIDENT. The Senator from North Dakota.

Mr. CONRAD. Mr. President, my staff, working with the staff of the Finance and HELP Committees, has spent an enormous amount of time ensuring that this bill complies with the rules of the reconciliation process. The majority and minority staffers have spent long hours going over this bill in excruciating detail with the Parliamentarian. We just heard the Parliamentarian's determinations on some of those issues.

The Parliamentarian has further advised us that two provisions do violate the Byrd rule. The first provision concerns the formula setting the maximum Pell grant amount annually and is considered out of order. Basically, it provides an insurance policy on how that level is calculated.

The second provision says this, in its entirety: ''(D) by striking subparagraph (E); and(E) by redesignating subparagraph (F) as subparagraph (E),'' and is also considered out of order.

CBO has concluded that the two provisions do not score for budgetary purposes. The Parliamentarian gave great weight to this in making his determination.

While I wish these provisions were not being stricken, removing them would not affect the score of the program or prevent the bill from achieving the goals of the new Pell grant policy.

Mr. President, we think it is important for the historical record to have these matters laid out on the record. I thank Senator GRASSLEY and his staff for the work to make certain that the historical record is clear, and I want to thank my staff as well, and the staff of the Finance Committee for an extraordinary effort. I hope the people of this country recognize that these staffs have worked on both sides, minority and majority, weekend after weekend after weekend, night after night after night, and they deserve our commendation and our thanks.

I thank the Chair.

Mr. BAUCUS. Mr. President, there are a flood of emotions going through all of us today as we pass this reconciliation bill which improves upon the bill the President signed 2 days ago. I would like to focus only on one part—a very important part but only one part—and that is to thank the people who have worked so hard, especially in this body, to help accomplish this result.

I thank especially my friends Senator DODD, the chairman of the Banking Committee, who many times acted in the capacity as chairman of the HELP Committee, and Senator HARKIN, chairman of the HELP Committee, working so hard with their staffs. As well, I thank Senator CONRAD, especially for his acumen, his budgetary acumen. I don't know anybody who knows this stuff better than Senator CONRAD. We all rely on him very much.

I thank Leader REID for his strategic vision—he helped put the Finance Committee bill together; he saw a path forward—and his staff, who are so competent—Kate Leone, Bob Greenawalt, Randy DeValk—his top three staff.

I also thank my friend from New Hampshire, Senator GREGG, for his courtesy in managing this bill. He was very decent and a very good person to work with.

We all want to thank so many people. Once we start mentioning a couple or three names, we run the danger of offending people whose names are not mentioned. We all know that. There will be an appropriate time for us to make all the thanks, and I will make mine so sincerely because I am so grateful for all the hard work my staff has put into this.

I wish to single out one person, and that one person is sitting next to me. Her name is Liz Fowler. Liz Fowler is my chief health counsel. Liz Fowler has put my health care team together. Liz Fowler worked for me many years ago, left for the private sector, and then came back when she realized she could be there at the creation of health care reform because she wanted that to be, in a certain sense, her profession lifetime goal. She put together the White Paper last November—2008—the 87-page document which became the basis, the foundation, the blueprint from which almost all health care measures in all bills on both sides of the aisle came. She is an amazing person. She is a lawyer; she is a Ph.D. She is just so decent. She is always smiling, she is always working, always available to help any Senator, any staff. I thank Liz from the bottom of my heart. In many ways, she typifies, she represents all of the people who have worked so hard to make this bill such a great accomplishment.

I will have printed in the RECORD the names of all my professional staff. There are more than I realized, so I can't name them all. I ask unanimous consent to have that list printed in the RECORD and just regret that I cannot thank everybody personally.

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

COMMITTEE ON FINANCE MAJORITY PROFESSIONAL STAFF

Ryan Abraham, Joseph Adams, Sarah Allen, John Angell, Randy Aussenberg, Mary Baker, Scott Berkowitz, Shawn Bishop, Mark Blair, Pat Bousliman, Joe Carnucci, Tony Clapsis, Alan Cohen, Blaise Cote, Amber Cottle, Tim Danowski, Bill Dauster, Chris Dawe, Jennifer Donohue, Neleen Eisinger.

Danielle Edwards, Andrew Fishburn, Yvette Fontenot, Liz Fowler, Jim Frisk, Christopher Goble, Michael Grant, Jewel Harper, Diedra Henry-Spires, Laura Hoffmeister, Andrew Hu, Matt Kazan, Ayesha Khanna, Tom Klouda, Cathy Koch, Christopher Law, Josh Levasseur, Richard Litsey, Carla Martin, Kerra Melvin.

Bob Merulla, Rory Murphy, Scott Mulhauser, Kelcy Poulson, Holly Porter, Hun Quach, Russell Quiniola, Tom Reeder, Matt Schmechel, Athena Schritz, David Schwartz, Erin Shields, Michael Smart, Meaghan Smith, Tiffany Smith, Challee Stefani, Greg Sullivan, Russ Sullivan, Chelsea Thomas, Kelly Whitener, Erin Windauer.

Mr. GREGG. I join the chairman of the Finance Committee in thanking so many people who participated in the process. I especially thank the staff on the dais and staff in the cloakroom who were here so late last night and do such an exceptionally professional job; otherwise, we could not move this type of legislation in a coherent way.

Obviously, I thank the chairman and I thank his staff and I thank the chairman of the Budget Committee and his staff because really there has to be cooperation across the aisle to handle something this complicated and do it in a reasonably efficient way, by Senate standards, which we did.

I especially, of course, thank the people on our side who played such a large role, our leadership but especially my staff on the Budget Committee—Cheri Reidy, who runs the committee, who does such an exceptional job; Jim Hearn, her partner; and Allison Parent. I will submit for the RECORD, as the Senator from Montana has, other members of our committee staff who have done such an exceptional job. But it seems you have to be named ''Liz'' around here to really understand health care because I have Liz Wroe on my staff, who really did such an extraordinary job for us here.

Again, I thank everyone who was so cooperative. There were an awful lot of amendments, and we could not have been successful without cooperation on both sides of the aisle.

Mr. CONRAD. Will the Senator yield?

Mr. GREGG. Yes, I will.

Mr. CONRAD. May I just say I really owe it to several people on my staff, especially my staff director, Mary Naylor. I don't know that there has been a person more dedicated to public service than Mary Naylor. What an extraordinary effort she has made, along with Bill Dauster of the Finance Committee and also my deputies, John Righter, Joel Friedman; my counsel, Joe Gaeta; and Sarah Kuehl, who led my health care team. We owe deep thanks to this staff. This has been a year-and-a-half long effort by so many;

lost weekends with their families, lost evenings.

Thank you. Thank you.

The VICE PRESIDENT. The majority leader.

Mr. REID. Mr. President, we have a few more items of business that must be taken care of, but I didn't want the time to go by without saying something to the American people.

We all know the importance of this legislation. It is a Thursday afternoon, about 2 o'clock. We are all tired. But this has been a legislative fight that will be in the record books. I am grateful for everyone who has worked on this to make this happen.

First of all, I have had a number of people on my staff who have worked very hard—Randy DeValk, who is kind of the resource of all the Senators, Republicans and Democrats. He is a utility man. He can do anything. He is a very accomplished, fine human being and a great person to have working for you.

Kate Leone has been such a stalwart in helping me work through these issues. We started this a number of months ago. We got together every week because I didn't know a lot about health care. She and I would sit and talk for an hour every week so I became more accomplished in knowing at least the framework of this legislation we looked forward to dealing with. I have so much appreciation for her. Like Randy, they left their families at home. She left her baby at home. A lot of the times, it was very difficult for a young mother to do that. I have such respect and admiration for her skill and her being such a nice person.

Bob Greenawalt, my tax guy, has done a remarkably good job—very quiet but someone whom everyone knows in the Senate. He is someone you can go to and get a straight answer.

Senator BAUCUS, the chairman of the Finance Committee, has had a tremendous burden. It has gone on for well more than a year. He has been criticized, he has been praised, but he has always been there trying to move this ball forward, always having the idea that we could get this done when a lot of people around him said, ''It can't be done.'' I personally appreciate MAX BAUCUS and the good work he has done for these many years for the State of Montana, but in recent months America has come to know the great work he has done on this bill which is now law.

TOM HARKIN—what a wonderful human being. When I had a very difficult election in 1998, no one called more often to find out how I was doing, both before the election and after the election. He is my friend. I care a great deal about him. He has some big shoes to fill, those of Ted Kennedy. He has been so easy to work with.

CHRIS DODD—even though he was no longer running the committee because Senator Kennedy died, TOM HARKIN never got involved in it. He left everything involved with health care that the committee had up to CHRIS DODD. It worked out well. We were able to do reconciliation, and he moved into something for which he has such great passion, and that is education. So thank you very much.

KENT CONRAD and I came to the Senate together. When the history books are written, there will certainly be a chapter or two or three talking about a person who over the years has come to know more about the finances of this country than any other human being—anyone. He and I are friends. He is the reason we are here now with so little controversy on these points of order. He has been someone whom you can really, because he is such a perfectionist—frankly, he can really get on your nerves. He is someone who always wants to make sure that the ''i'' is dotted and the ''t'' is crossed. I am so grateful we are able to be where we are as a result of the good work of this honorable man from the State of North Dakota.

Finally, I have seen this man shed tears on so many occasions in the last few months. Why? Because his pal is no longer in the Senate, his buddy, his soulmate. There could not be two better friends than Ted Kennedy and CHRIS DODD. I don't know how you can be better friends than they were to each other. He has done such a good job filling in for Ted Kennedy. I know we want to get to this vote, but I love CHRIS DODD. He is such a wonderful person, and his family is remarkably good. He got home at quarter to 4 this morning, and Grace woke him up at 5 to tell her story.

CHRIS, thank you very much for what you did.

MOMENT OF SILENCE

I think it would be very appropriate, and I hope I do not offend anyone—if I do, I certainly do not mean to—I think it would be very appropriate right now to have a moment of silence for our departed friend, one of the great Senators in the history of this country, Ted Kennedy.

I ask the Chair to direct that moment of silence.

The VICE PRESIDENT. Without objection, the Chair will direct a moment of silence.

(Moment of silence.)

The VICE PRESIDENT. The majority leader is recognized.

Mr. REID. Mr. President, I ask that when the vote is called, Senators vote from their desks.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, let me acknowledge the majority leader also because he has been under tremendous stress. We all know that, with what has happened relative to Landra and his daughter. We appreciate the fact that he has been so professional and worked so hard while confronted with this extraordinarily difficult situation. We obviously wish everyone in his family well.

Mr. President, at this time I will make two points of order. I submit for the RECORD a statement of those points of order.

The following provision of the pending bill, H.R. 4872, the Health Care and Education Affordability Reconciliation Act, on page 118 at line 15 through 25 does not produce changes in outlay or revenues and thus is extraneous. Therefore, I raise a point of order under section 313(b)(1)(A) of the Congressional Budget Act of 1974.

The VICE PRESIDENT. The point of order is sustained.

Mr. GREGG. Mr. President, the following provision of the pending bill, H.R. 4872, the Health Care and Education Affordability Reconciliation Act, on page 120, lines 3 through 5, does not produce changes in outlays or revenues and is extraneous. Therefore, I raise a point of order under section 313(b)(1)(A) of the Congressional Budget Act of 1974.

The VICE PRESIDENT. The point of order is sustained. Both provisions are stricken.

Mr. GREGG. I thank the Chair.

The VICE PRESIDENT. The Senator from North Dakota.

Mr. CONRAD. Mr. President, in keeping with my previous statement, we on our side would not further contest either of those provisions.

The VICE PRESIDENT. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The VICE PRESIDENT. The Senator from Montana.

Mr. BAUCUS. Mr. President, is it appropriate to ask for the yeas and nays?

The VICE PRESIDENT. Yes, it is.

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

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The bill having been read the third time, the question is on passage of H.R. 4872, as amended by operation of section 313(e) of the Congressional Budget Act of 1974.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

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

[Rollcall Vote No. 105 Leg.]

YEAS—56

Akaka	Byrd	Feingold
Baucus	Cantwell	Feinstein
Bayh	Cardin	Franken
Begich	Carper	Gillibrand
Bennet	Casey	Hagan
Bingaman	Conrad	Harkin
Boxer	Dodd	Inouye
Brown (OH)	Dorgan	Johnson
Burris	Durbin	Kaufman

Kerry
Klobuchar
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
McCaskill
Menendez
Merkley
Mikulski
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sanders
Schumer
Shaheen
Specter
Stabenow
Tester
Udall (CO)
Udall (NM)
Warner
Webb
Whitehouse
Wyden

NAYS—43

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

NOT VOTING—1

Isakson

The bill (H.R. 4872), as amended, was passed.

Mr. REID. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, today's final passage of this Health Care and Education Reconciliation Act marks the culmination of a decades-long struggle to make health insurance affordable to hard working Americans. This has been an arduous process, but it has proven that change truly is possible. America again has risen to meet one of its foremost challenges.

Still, there is more work to be done to introduce competition into the health insurance industry. Today, health insurers do not play by the same rules of competition as do other industries. Benefiting from a 60-year-old special interest exemption, the business of insurance is not subject to the Nation's antitrust laws. These laws promote competition, which ensures that consumers will pay lower prices and receive more choices. We can surely agree that health insurers should not be allowed to collude to set prices and allocate markets.

Last fall, I introduced legislation to repeal the health insurers' antitrust exemption. I held a hearing to examine the merits of this repeal, and worked to build bipartisan support. A few weeks ago, repeal of the antitrust exemption for health insurers became the first stand-alone part of the health reform package to pass the House, in a strong bipartisan vote of 406–19. Today I want to renew my call for the Senate to take up and pass this legislation to repeal the antitrust exemption for health insurance companies.

As they begin to implement the measures included in the Patient Protection and Affordable Care Act, the Department of Health and Human Services, other Federal agencies, and the States can all greatly benefit from the competitive analysis provided by both the Department of Justice's Antitrust Division and the Federal Trade Commission, FTC. The Justice Department and the FTC have the knowledge and experience to provide informed assessments of whether a marketplace is functioning properly, and when there may be warning signs that competitive abuses are taking place. Their expertise will ensure that the basic rules of fair competition apply to those reforms included in the new health insurance reform law.

Mr. CONRAD. Mr. President, I want to add to my comments from earlier today regarding the passage of H.R. 4872, the Health Care and Education Reconciliation Act of 2010. I want to again acknowledge and thank my staff for their extraordinary effort and professionalism. My staff has worked tirelessly over many months, working late nights and weekends on health care reform and reconciliation. I greatly appreciate the sacrifices that they—and their families—have made in these efforts.

On my Budget Committee staff, I want to again thank my extraordinary staff director, Mary Naylor, as well as my deputy staff directors, John Righter and Joel Friedman, and my counsel, Joe Gaeta. In addition, I want to thank my incredible Budget health team, which is led by Sarah Kuehl, but also includes Purva Rawal, Jim Esquea, Jennifer Hanson-Kilbride, and Steve Bailey. They did extraordinary work. I also want to thank my Budget education team, Robyn Hiestand and Matt Mohning. Education was an important part of the reconciliation bill and college students will benefit greatly from the expansion of Pell grants and other assistance. I want to thank the remainder of my excellent Budget Committee staff, all of whom contributed greatly to this effort. I particularly want to thank Craig Kalkut, Ron Storhaug, and Jean Biniek for their assistance in this effort.

Finally, I want to thank the staff in my personal office. They also played a key role in this effort and represented the State of North Dakota very well. I want to thank Sara Garland, my chief of staff; Tom Mahr, my legislative director; Kate Spaziani and Dana Halvorson, my personal office health team; and Caitlin Coghlan, my education specialist. In particular, I want to thank Tom and Kate for their extraordinary efforts. They worked hand-in-hand with my Budget team in helping produce a bill that moves this nation in the right direction on health care and fiscal responsibility.

I believe it is important that the American people understand the work and sacrifice made by the staff who work here in Congress on their behalf. The last year has witnessed an incredible effort by staff on both sides of the aisle. I thank them all, and again, thank my staff in particular.

Mrs. BOXER. Mr. President, it is clear to everyone watching the debate on the Health Care and Education Reconciliation Act that amendments were offered for the sole purpose of derailing health care reform. Therefore I voted to table all amendments.

Under normal circumstances, I would have supported some of the amendments offered by my colleagues. For example, last night, an amendment was offered to clarify that the health care reform bill would not adversely affect VA and military health care programs. I am a cosponsor of freestanding legislation that would make that very same clarification. However, last night, when Senator WEBB asked unanimous consent for that legislation to be adopted separate from this bill, an objection was raised from my friends on the other side of the aisle.

I am pleased that the bill passed because it will make life better for the people I represent.

Mr. DURBIN. Mr. President, the reconciliation bill on the floor today realizes a dream of my friend and mentor, former Senator Paul Simon—consolidation of the Federal student loan program entirely into direct loans.

The very first Federal student loans were direct loans provided under the National Defense Education Act of 1958—directly from the Federal Government to students.

In 1965, the Federal Government began guaranteeing student loans provided by banks and nonprofit lenders through the Federal Family Education Loan, FFEL, Program. Through this program, the Federal Government would pay banks a certain rate of return on student loans and guarantee those loans against default.

By the early 1990s, it was clear to Paul Simon that incentivizing banks through subsidies no longer made sense. The Federal Government could make loans more cheaply and more simply directly to students.

As he said: ''Are we in the business of helping banks and guarantee agencies, or are we in the business of helping students?''

Paul Simon became the leading Senate champion of a new direct college loan program, enacted in 1992 as a small pilot program. He and others hoped that the Direct Loan Program would be quickly expanded to replace the FFEL Program.

In 1993, during a budget reconciliation fight, lobbyists for the banks and Sallie Mae joined forces to try to defeat the effort to move the student loan system into direct loans. The result was our current system: the Direct Loan Program and the FFEL Program operating side-by-side.

This system hasn't worked. Private lenders like Sallie Mae have retained the majority of the student loan market through special deals with financial aid offices and have continued to make billions off of taxpayer-funded subsidies—$6 billion per year. Taxpayers are absorbing all the risk of student loan defaults, while private corporations bank all the profit.

Senator Kennedy, a longtime proponent of direct loans, once said: ''We

waste billions of dollars in corporate welfare every year on student loans, and we cannot afford it any longer.''

I agree with Paul Simon and Ted Kennedy. And so does Chairman HARKIN, who led this bill through the HELP Committee. I join him in supporting this bill that would finally end corporate welfare in the Federal student loan program and put that money back in the hands of students.

The reconciliation bill will shift all loans into the Direct Loan Program that Paul Simon envisioned and use the $68 billion in savings to invest in education priorities.

We will put $36 billion over the next 10 years into the Pell Grant Program, a program that we know is essential for many poor families and struggling students.

For the first time, we will index the Pell grant to inflation. We will also avert a projected Pell grant budget shortfall caused by recent increased demand for Pell grants.

Without this investment, 8 million students could see their Pell grants cut by 60 percent next year, and 600,000 students could lose their scholarships completely.

The bill will cap monthly student loan payments at just 10 percent of discretionary income, so that college graduates can pursue careers in teaching or public service without the burden of student loan bills they couldn't keep up with.

We will also invest in historically Black colleges and universities, minority serving institutions, community colleges, and state-based college access programs that help students succeed in college.

And we will reduce the deficit by $10 billion over 10 years.

Families and students will benefit enormously from this bill and the realization of Paul Simon's vision. And who will suffer? Bank and lending executives who have grown rich off of unnecessary taxpayer subsidies for decades.

Paul Simon was right 20 years ago, and he is still right today. It is time to take the middleman out of the student loan industry and return our focus to students.

I would like to thank Senator HARKIN for his hard work on the student loan reform provisions in this bill and for his tireless efforts on behalf of college students across the country.

I strongly support the student loan reform provisions that are included in the reconciliation bill and I look forward to seeing Paul Simon's full Direct Loan Program finally signed into law.

Mr. ROCKEFELLER. Mr. President, I have always wondered if this day would come, when I could stand on the Senate floor before my colleagues and say those words:

We did it. We passed comprehensive health care reform.

Many have come before us and we have worked together for years. We took on a monumental task and faced obstacles at every corner.

It wasn't easy—nothing that is worth doing is easy. But we put aside our own differences and came together to pass meaningful legislation that will transform the way health care works in our country.

And it was worth every minute and every hurdle. It was worth every setback and every step forward.

Because for all those challenges, for all our debates and negotiations, I know that any trouble we faced was nothing in comparison to the daily struggle millions of Americans face everyday without health insurance. Millions that are without coverage who live everyday in terror of becoming sick—parents powerless to provide care for a sick child, workers unable to change jobs and pursue a new opportunity, families forced to choose between seeing a doctor and paying their mortgage.

When I think about the cause of reform, I think about those people and their stories.

And I want to tell you about some of them today.

I want to tell you about the Bord family of West Virginia.

The Bords are two dedicated school teachers—with health insurance, through their employer—whose son Samuel had Leukemia and needed treatment well beyond the onerous annual insurance limits, they didn't even know they had. Samuel's parents were desperate and feared for the worst. When he hit his million dollar cap, my office helped his parents find more resources.

But, the Bords were left with two heart-wrenching suggestions—consider getting a divorce so that Samuel would qualify for Medicaid and stop taking their other children—Samuel's twin brothers—to the doctor altogether, even if they got sick, in order to save every penny for Samuel.

That's right. Get a divorce and choose one child's health care needs over another's.

Those are the choices our Nation offered to these caring, hard-working parents with a sick child?

They did everything in their power but, this fall, Samuel passed away.

It breaks my heart to think of what his parents went through: not only the pain of watching their son fight a terrible disease, but also the uncertainty of paying for his treatment when the coverage they counted—on and paid for—abandoned them.

And so now, we are creating a more secure and reliable health care system that works for every American: where those who are uninsured finally have someplace to go for care; where those with health insurance know that the coverage they count on—and pay for—will be there when they need it; and where a profit driven insurance industry cannot play mercilessly with people's lives or steal their hope for a healthy future.

This new law is for all those countless people we have lost to a broken system. This is Samuel's law. We will never be able to bring him back—but we can make sure no one's health is ever left to the whims of annual and lifetime caps or pre-existing conditions or arbitrary rate hikes.

In the course of my Senate Commerce Committee investigations into the health insurance industry, I met a wonderful woman named Susan Pearl.

You see, we knew in the committee that health insurance companies were not being straightforward about how much money they were spending on actual medical care. Too many people were not getting the care they needed, yet health insurance industry profits continued to soar.

So Susan came to us. Her husband owns his own business, and they had coverage—good coverage. And they were glad to have it—their son Ian was born with muscular dystrophy, but was doing well with medical treatment.

Unfortunately, Susan's insurance then decided that her son's care—including the round-the-clock nursing necessary for advanced muscular dystrophy—was getting just too expensive for them to continue paying.

So with the full knowledge of the devastating and fatal effects of dropping coverage—Guardian Insurance abruptly rescinded, not just Ian Pearl's coverage, but the entire family policy, replacing it with another plan that was, quite simply, inadequate.

With Ian's life-saving care costing upwards of $1 million a year, Susan did everything she could to reinstate Ian on his original plan—the one she had paid into faithfully for years.

Thankfully, Susan Pearl was able to recover Ian's old coverage—but only after Guardian's deplorable practices drew worldwide media attention.

This new law means health insurance companies can no longer gamble with people's lives and rescind coverage because it's hurting their bottom line.

You shouldn't need the full focus of a Senate investigation, just to be treated fairly by your insurance company.

I think of small business owners like Kate from my home State of West Virginia who shared her story on the White House Office on Health Reform's public website www.healthreform.gov. Her 2-year-old son is the only person with health insurance coverage in her household.

Many of us know that it is often hard for small businesses to find affordable coverage for themselves and their employees.

She and her husband are small business owners and they simply could not find an affordable policy. Today, small businesses pay up to 18 percent more than large firms for the same health insurance policy, so many just don't even offer it. While small businesses make up 82 percent of businesses in West Virginia, only 37 percent of them offered health insurance coverage to their employees in 2008.

Kate wished she even had the security of catastrophic coverage. She

knows she is risking her home and economic security without health coverage, but, basic health insurance is a luxury she and her husband simply can't afford.

When it comes to health care, small business owners have been facing higher administrative costs, lower bargaining power, greater price volatility and fewer pooling options. These are not minor details. They are major problems and health care reform includes concrete solutions to begin solving them.

Now, with this new law, West Virginia businesses will have access to far more affordable coverage options. In 6 months, as many as 20,000 small businesses in West Virginia like Kate's will have access to tax credits for up to 35 percent of the cost of health coverage for their employees.

And new State-based health insurance exchanges will be designed to help small businesses cover their employees in the small group market. By expanding the pool and spreading risk across every individual in the State exchanges, we can significantly decrease premiums for small businesses and lower administrative costs for small business coverage by as much as 30 percent.

Many people have heard about Sarah Wildman, a woman who purchased insurance on the individual market right here in Washington, DC.

Sarah was an informed consumer and specifically chose a policy she believed included good maternity coverage—one of the few policies on the individual market that cover maternity care at all.

Of course, her so-called ''Maternity'' coverage didn't cover labor, delivery, or even her stay in the hospital. And as a result, Sarah was left with a $22,000 bill.

And, because she gave birth by cesarean section—she now has a ''preexisting'' condition and can no longer get coverage elsewhere.

Sarah's situation would seem absurd, if it were not so deadly serious. And it begs the question: What is the value of health insurance that offers no coverage when it's needed?

But soon she won't have to worry. This new law will mean the elimination of preexisting condition exclusions—right away for our children and as soon as the exchanges are up and running for adults.

Both the House and the Senate have spent more than a year working on a meaningful plan to move our health system forward.

For many of us this journey started in earnest three years ago in our effort to reauthorize the Children's Health Insurance Program. Protecting that program—which will cover more than 14 million children by 2013—represents yet another of this new law's enormous achievements.

But today's achievement is built on more than 50 years of effort and incremental change—some quite meaningful, but none truly comprehensive.

At last, our work has brought fundamental changes to a broken health care system, and takes an enormous step to begin making people's lives better.

I was so proud to be there with the President when he signed the Patient Protection and Affordable Care Act into law—after spending my entire career in public service committed to this cause, it was a chance to witness history in the making.

I want to thank my colleagues in the House and Senate who did the right thing for the American people. I know we are walking on the right side of history. I know many wanted to do even more, and go further. I know this bill is not perfect, but it will be transformative and that is a good thing.

I particularly want to thank two courageous colleagues on the House side—Congressmen ALLAN MOLLOHAN and NICK RAHALL who took a stand for the American people and voted to pass this legislation.

I want to thank HARRY REID for his leadership, and his unwavering vision which helped deliver a final bill to the President's desk.

And finally, I want to thank the President who came to the White House as a champion of change. And now, he has delivered.

We knew it would not be easy to change our health care system, but we persevered. All of us have stories like the ones I told.

I am enormously proud to have supported this legislation, which, more than anything, means a better health care system. It means a better America and a better life for families everywhere.

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

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

UNANIMOUS-CONSENT REQUEST—EXECUTIVE CALENDAR

Ms. LANDRIEU. Mr. President, at this time I wish to give a short statement for the RECORD, and then I will ask for the Senate to consider the nomination of Winslow Lorenzo Sargeant, of Wisconsin, to be Chief Counsel for Advocacy, for the Small Business Administration.

This is very troubling to me, as the chair of the Small Business Committee. Months ago now, we had Dr. Winslow Sargeant before our committee. The President nominated him to be the Chief Counsel of the Office of Advocacy for the Small Business Administration. For my colleagues who may not be aware of this office and how important it is to have a qualified individual leading it, let me say that the Office of Advocacy works to reduce the burdens of Federal policies and regulations on small business, which is an important effort that is undertaken when either Republicans or Democrats are in the majority.

We recognize that sometimes regulations, particularly overly burdensome regulations, can be difficult for small business, so this position in the Small Business Administration was actually created to advocate not on behalf of the regulations, not on behalf of the government, but on behalf of the small businesses—the millions of them that are out there struggling right now to create jobs. We want to be helpful to them, not hurtful. So it is puzzling to me why this nomination is being held up, particularly because he passed out of our committee with bipartisan support.

He has three degrees, including a Ph.D. from the University of Wisconsin-Madison in electrical engineering, and a background as a very successful small business owner himself. He not only is well educated but well aware of the many difficult challenges facing businesses today.

Dr. Sargeant cofounded Aanetcom, a technology company that was ultimately acquired. He is currently the managing director of Venture Investors, a Midwest venture capital company which focuses on funding startup health care and technology companies. In this role, Dr. Sargeant works closely with technology transfer organizations to develop policies which enable the formation of startups, giving him an unmatched insight into the needs of entrepreneurs in this challenging economic environment.

This is exactly what we need to be doing here: nominating and confirming people such as this to step into positions of power, to advocate on behalf of small businesses. So it is very troubling to me this nomination has been held up. I am going to ask for his nomination to be cleared in a moment.

I am also puzzled because he has the support of many business organizations: the National Small Business Association, the Small Business Association of California, the Small Business Technology Council, and the Small Business Association of New England—very well-respected small business organizations from one side of the country to the other that are familiar with him and his work.

With more than 80 percent of job losses coming from small businesses since the current recession began, it is critical, I believe, as the chair of this committee, that we provide our Nation's 29 million small business owners