

thin because of their shrinking tax bases and high transportation and other costs. They cannot afford any more unfunded mandates from Washington.

They need help attracting and keeping good teachers.

They need help to keep up with advances in technology.

I talk to teachers and principals in South Dakota all the time who tell me, "We're not afraid of accountability. We welcome high standards; we know we can meet them. Please, just don't set us up to fail."

Last month, during the Senate debate on the budget resolution, we offered an amendment sponsored by Senator TED KENNEDY and Senator PATTY MURRAY to fully fund No Child Left Behind. Our amendment would have provided exactly what Democrats and Republicans agreed was needed to make the law work when we passed it 2 years ago.

Regrettably, Republicans defeated our amendment.

But this is not over. There are still months to go before Congress passes a final budget. At every opportunity, we are going to continue to press for full funding of No Child Left Behind. We will also press for the Federal Government to honor its commitment to shoulder 40 percent of the cost of special education.

Accountability in education is essential. But accountability has to work both ways. Congress cannot pass the most sweeping education reforms in a generation and then refuse, year after year, to pay for them. The reforms in No Child Left Behind are the right reforms for our children's schools. But they will not work if we refuse to fund them.

I recently received a letter from an elementary-school student in South Dakota. Because of budget shortfalls, her school district is considering merging with another district.

She wrote, "Even though we are just two small towns in South Dakota, the Burke school means very much to me."

Then she added, "I know that NASA is trying to help mankind, but right now, my school needs that \$3 trillion more! . . . I'm in the fifth grade. . . . The school means very much to me, so please HURRY."

Budgets are statements of our priorities and values.

Before we vote to spend trillions of dollars to make permanent the President's tax breaks for the very wealthiest Americans, and before we spend hundreds of billions more to send a person to Mars, we need to fund our children's schools.

In his first budget address to Congress, President Bush said, "The highest percentage increase in our budget should go to our children's education." Yet, the President's proposed budget for next year includes the smallest increase for education in 9 years.

We must restore the broad, bipartisan support for No Child Left Behind

that existed 2 years ago. To do that, we must fund the law.

The Federal Government needs to keep its end of the agreement. Words alone are not enough. Real reform requires real resources.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. How much time remains for morning business on our side?

The ACTING PRESIDENT pro tempore. Thirty-two minutes.

#### NATIONAL ENERGY POLICY

Mr. GRASSLEY. Mr. President, I rise to address the issue of prescription drugs as part of Medicare, a new provision dealing with Medicare, but before I do I will comment on the two issues that have been brought up by Democratic Members of the Senate. I only do that because I think it is appropriate people know that there are two sides to every story—maybe five sides but at least two in the Senate.

I do not find fault with my Democratic friends for bringing issues to the Senate floor, but in the case of the high cost of gasoline as an example, which the Senator from Oregon was talking about, all I can say is we had a national energy policy before the Senate. It passed the House last year; it passed the Senate last year. We spent a couple of months in conference and worked out a very good compromise. It passed the House of Representatives by a wide margin. Exactly how much I do not recall. Then it came to the Senate and we were faced with a filibuster.

In that filibuster cloture vote, we got 58 votes. It obviously takes 60 votes to stop a filibuster. Out of those 58 votes, we only had 13 out of 49 Democrats vote to break that filibuster. So there are another 36 Democrats that if they want to help us reduce the cost of energy, I would beg them to tell our leader that they are prepared to break that filibuster. The leader filed a motion to reconsider. We could bring that up again and within 2 minutes we would have a national energy policy that would send a clear signal to OPEC that we have our energy house in order in this country, and hopefully let them know they are not going to have an economic stranglehold on our economy as they evidently think they have by reducing their production of oil by 4 percent as they did a month ago.

Why would we not expect the OPEC nations to take advantage of a divided Congress when we all know, with the energy blackout in the Northeast last August and with \$2 gasoline right now in the United States, that this country ought to be doing everything it can to solve its energy problem?

The national energy policy we had before Congress last fall that there was a Democrat filibuster against would be a solution because it emphasizes in a very balanced way three things: One, tax incentives for the enhanced produc-

tion of fossil fuels; No. 2, tax incentives for renewable fuels, wind energy, ethanol, biodiesel, biomass; and tax incentives for conservation, such as fuel cell cars.

So when we have an effort to bring a national energy policy before this Congress, and it is defeated by a filibuster that only 13 out of 49 Democrats would support, then it seems to me very wrong for people on the other side of the aisle to be complaining about the high price of gasoline.

Now, it is all right to complain about the high price of gasoline because I do every time I go to fill up my car, but on the other hand, it is one thing to complain about it and not do anything about it. What we need to do is join forces to get this national energy bill passed. It would help if we could get two more Democrats to help us defeat that filibuster.

#### EDUCATION FUNDING

Mr. GRASSLEY. As to the issue of education, all I can point out is that this President has always had education very high on his agenda. Except for September 11 and the war that we are now involved in, education would be No. 1 on this President's agenda. But because of the war, we are in a budget situation now where we are having 10-percent increases for homeland security, 7-percent increases for defense because of the war, and we are having 3-percent increases for education. Now, that may be, as the distinguished Democratic leader said, the smallest increase in education for years, but this 3-percent increase in education is far higher than anything else in the domestic budget that the President proposed to the Congress of the United States because every other domestic program in that budget is going to be increased nine-tenths of 1 percent.

So when we are involved in war, whether it is the 21st century war on terrorism or whether it is the 20th century war on fascism, World War II, this country puts all of its efforts behind the men and women who are on the front line, giving them all of the resources they need to win that war because we only go to war if we go to war to win. This President has done that. But, after taking care of our responsibilities to the men and women on the battlefield, this President has always had education at the top of his agenda. With the way this year's budget treats education compared to every other domestic program, and only third to homeland security and the war, this President is keeping his commitment to education.

#### MEDICARE PRESCRIPTION DRUG PROGRAM

Mr. GRASSLEY. Now I would like to address the issue of the Medicare prescription drug program, because on January 1, the seniors of America are going to make a voluntary decision

whether they want to take advantage of this new program, and January 1 would be the opportunity to take advantage of the interim program for the years 2004 and 2005, before the permanent insurance program on prescription drugs kicks in November 15, 2005.

It was just under 5 months ago that the President signed this Medicare Prescription Drug Improvement and Modernization Act. It was the first strengthening of Medicare in its 30-year history. Next Monday, then, beneficiaries can begin enrolling in the Medicare-approved drug discount card, the first stage of what I call the temporary program of the new comprehensive Medicare Modernization Act. The cards go into effect June 1 and will offer seniors much needed discounts and information on brand name and generic prescription drugs.

Medicare beneficiaries who choose to enroll in the voluntary discount card will have choices. I emphasize, this is not something the seniors of America have to do. This is a voluntary program. Not only is it voluntary whether you join the program, but the seniors will have choices within their voluntary decision to join, because there are 38 sponsors offering cards to Medicare beneficiaries nationwide, with some sponsors offering more than one card. More than 40 Medicare advantage plans—the Medicare+Choice, or let's say the Medicare HMOs, as some people know it—offer Medicare beneficiaries additional coverage. They will offer exclusive cards to their members.

There also will be regional cards offered to certain beneficiaries, such as those in nursing homes throughout our country.

Under the drug discount card, beneficiaries will save 10 percent to 25 percent off the retail prices that they paid before they had a Medicare-endorsed discount card. In fact, a study recently in *Health Affairs*, a peer-reviewed journal of health policy, estimates that if seniors who currently lack prescription drug coverage enroll in a Medicare-approved drug discount program, they can expect to reduce their out-of-pocket drug spending by approximately 17.4 percent.

There is still more good news. One of the most important parts of this drug bill is the nearly immediate help to very low income Medicare beneficiaries, people who do not have prescription drug coverage and who do not qualify for Medicaid.

Low-income beneficiaries—and that would be generally those with incomes under 135 percent of poverty—are helped in two ways. They get a discounted price and they get up to \$600 annually in 2004 and 2005 to help buy drugs they need at the pharmacy. The beneficiaries would get access to the \$600 in assistance through the Medicare-endorsed discount card. The card will be just like a debit card. When the card is presented to your pharmacy, the beneficiaries are able to draw down from the \$600 and purchase their pre-

scription drugs. They can continue to use that until it has run out, between now and December 31.

If they have some money left over on that card on December 31, 2004, that can carry over until year 2005, and they can get an additional \$600 in the year 2005. If they didn't have that full \$1,200 used by December 1, 2005, it can carry over until 2006, until it is all used and they take full advantage of the insurance program that is going into effect at that particular time.

Also, let me make it very clear that if there are two in the family who would qualify for the \$600, then that family would get \$1,200 in 2004, and an additional \$1,200 in 2005, until it is used then, either in 2005 or carried over to 2006.

I should probably use a lot of examples but I just want to use one example of a woman enrolled in Medicare in Waterloo, IA, near my farm. If she had an income of \$12,000 a year and she needed to fill a prescription for Celebrex, the retail price for 30 tablets would be \$86.28. This woman from Waterloo, IA, would save nearly \$22 a month off the retail price and be able to draw down some of her \$600 in assistance to pay for the discounted prescription that lady needs. The \$600 credit in conjunction with the discount card will give these most vulnerable low-income citizens immediate help in purchasing prescription drugs that they otherwise, maybe, would not be able to afford or maybe would have to make a very difficult choice between buying food or buying prescription drugs. We hope this eases that choice which some seniors and disabled people in America must make today.

We expect more than 7 million beneficiaries to enroll in this program. Nearly 5 million low-income beneficiaries are expected to apply for this \$600 of assistance—\$600 in 2004 and \$600 in 2005; husband and wife qualifying, that will be \$1,200 in 2004 and \$1,200 in 2005.

What we need to do now is to continue to let people know about the availability of the card and to help them get information to make enrollment decisions to sign up for the \$600 in additional assistance.

I commend the Center for Medicare Services' staff for their work in this area. They are doing much to help people understand this situation.

If I were going to summarize before I go into it, I could say, as I did in my 36 town meetings in Iowa that I have held since January to acquaint Iowans with this new prescription drug program, that I provided four sources of information. One would be if they want to contact any congressional office, including mine, I think they would find that as a source of information. No. 2 would be the 1-800 Medicare toll-free number to which I will soon refer. Also, I had the benefit of having personnel from the federally financed but State-insurance-department-administered program called SHIP, the Senior Health Insur-

ance Information Program. That program in my State of Iowa, and I assume in most States, will give people one-on-one consultation about how to compare the benefits of the prescription drug program with what their health care needs are and what their income happens to be. Those are all private matters that our constituents are not going to want to make public. So they have the benefit of the SHIP employees and volunteers working with them to help them work through which program might be best for them.

Then, of course, we have the AARP, which is an organization, I tell Iowa constituents, that deserves great benefit for bringing about the bipartisanship in the Senate that it took to get this legislation passed and signed by the President.

Without the AARP we would not have a prescription drug program for seniors. The AARP has attended a lot of my meetings. I have not heard one criticism of the AARP at any of my 36 town meetings. The AARP representative has been present to tell how that organization can help people get information about this new prescription drug program. The AARP probably has the best layperson's explanation of this legislation that is available. I hand those out at my town meetings as well.

I commend the Center for Medicare Services for their help in this area. I would like to say what their help has been beyond what I have just said.

They helped develop an Internet-based tool that will help seniors learn more about the available discount card options. By using this tool, which will be up and running yet this week, beneficiaries will be able to compare the particular drugs and prices offered by senior sponsors. The Internet site can even tell them whether their neighborhood pharmacy participates in a particular card. But we know that not all beneficiaries feel comfortable using the Internet. Those who don't can call 1-800-Medicare and ask for information about the card being sent to them.

The Center for Medicare Services also has taken important steps to streamline the enrollment process by having the standard enrollment form and allowing States under certain circumstances to enroll low-income Medicare beneficiaries into this card program. This will make it easier for low-income beneficiaries in States with pharmacy assistance programs to get the additional \$600.

The card sponsors will also be closely monitored by CMS to ensure that they are playing by the rules and not cheating anybody. CMS will track any changes made in the drug prices and complaints received by their 1-800-Medicare number or other sources. They will also "mystery shop" to make sure the sponsors are not falsely advertising. They will be on the lookout out for scam artists who claim to be offering an approved card. While I am confident that most card sponsors will do the right thing, I am very pleased that

CMS will be dedicating resources to protect beneficiaries and in turn the Medicare trust fund as well.

I want to respond to some accusations that were made yesterday by Senators from the other side of the aisle about this bill. It is a carping we often hear that is very inaccurate, and I want to make sure that constituents know what the true story is.

I want to clarify once again important details and answer concerns—particularly inaccurate concerns—that were offered on the other side of the aisle.

Some have argued that our seniors would receive a greater benefit under this Part D drug benefit which I have been speaking about, set to begin in 2006, if the Government would step in on negotiations between drug manufacturers and prescription drug plans. This is not accurate. This noninterference provision allows seniors to get a good deal through market competition rather than through price fixing by the Federal Government.

A basic concern we have is that in writing the legislation the way we did, we don't want some government bureaucrat in the medicine cabinets of our seniors. We don't want that bureaucrat coming between our doctor and our patient. That is why that provision is in this bill. The provision protects patients by keeping government out of decisions about which medicines they will be able to receive. Under this section, the Government will not be able to dictate which drug should or should not be included in the prescription drug plan.

The new Medicare Part D drug benefit allows seniors to use their group buying power to drive down drug prices. We rely on market competition—not price fixing by the Government—to deliver the drug benefit.

The reason we know this works is because it has worked for 40 years in the Federal Employee Health Benefit Plan. There is no bureaucrat telling some Federal employee what their plan can provide to them in the way of drugs.

The law's entire approach is to get seniors the best deal through vigorous market competition and not through price controls.

These private plans have strong incentives under this legislation to negotiate the best possible deals on drug prices. These plans are at risk for a large part of the cost of the benefit. They also have the market clout to obtain large discounts. By driving hard bargains, they will be able to offer lower Part D premiums and attract more enrollees.

The alternative is a command-and-control system that would not be responsive to consumer desires or to marketplace reality. Bureaucrats would swing between adding benefit requirements without a means of paying for them and then restricting choices and access in an effort to contain costs. The noninterference provision is a fundamental protection against such inex-

plicable government bureaucratic action.

We are also hearing complaints from the other side of the aisle even after three or four times last month straightening them out about what the true cost of this drug program is. What is the true cost? You look ahead 10 years to what a program is going to cost, and you make the best judgment you can of what it is going to cost. There are good people in the Congressional Budget Office who are good at that and who try to do the best thing, but you aren't going to know until 10 years have passed what the true cost is.

It seems to me to be intellectually dishonest for people telling us that somebody downtown can tell us what the true cost of this legislation is. I am going to respond to those accusations about what the true cost of the Medicare bill is for a third time. I am going to do it for a fourth time and a fifth time if I have to until somebody on the other side of the aisle learns something about what this bill does or doesn't do.

They are trying to say that somehow the true cost was hidden from Congress. This is simply election year hyperbole. The opponents of the drug benefit are making this claim because the final cost estimate from the Center for Medicare Service's Office of the Actuary was not completed before the vote took place. But let us be clear: The cost estimate was not withheld from Congress because there was not a final cost estimate from the Center for Medicare Services to withhold. But they don't even know what this so-called cost is because they have to look ahead 10 years and make the best educated estimate they can 10 years ahead of time just like the Congressional Budget Office does. But their estimate wasn't even completed until December 23. The President signed the bill December 10.

Let me also make clear that the Congress had an official cost estimate on the Medicare bill before the vote, and that is the one from the Congressional Budget Office. I keep telling people who don't understand the importance of the Congressional Budget Office, which guides every Member of U.S. Senate, that when they say something costs something, even if they are wrong, that is what it costs. You don't dispute it. The ability to raise a point of order against the bill if you exceed that cost takes 60 votes. That is how important the Congressional Budget Office is. That is the only office we go by.

Somebody can make a complaint that maybe some administrator downtown was muzzled into not talking to Congress, but they were talking to me. I don't know why other Members of Congress couldn't have had the same information I had, and it wasn't much information at that. But you can talk. If somebody was muzzled in our Government where transparency and openness ought to be the rule, that is

wrong, I agree, but these accusations about whether the information was withheld have raised questions of whether Congress had access to a valid and thorough cost estimate for the prescription drug bill before the final vote in November.

It should also be made clear while the cost analysis by the Office of the Actuary is perhaps helpful, it is not the one Congress relies on. Congress relies exclusively upon cost projections by the Congressional Budget Office. It is CBO's cost estimate we use to determine whether legislation is within authorized budget limits.

For Congress, if there is a true cost estimate, that is CBO's. And true costs can, at best, be said as a 10-year guesstimate, an educated guess into the future, and it would be the Congressional Budget Office's. CBO's cost estimate is the only one that matters.

When Congress approved a \$400 billion reserve fund to create a Medicare prescription drug benefit, this meant \$400 billion according to the Congressional Budget Office, not according to the Center for Medicare Services, as the other side would somehow say, that would have a definitive impact upon Congress.

You do not raise a point of order in this body against an estimate by the Center for Medicare Services or even the Office of Management and Budget that speaks for the entire executive branch of Government.

With all due respect to the dedicated staff who work at the Center for Medicare Services, Office of the Actuary, their cost estimates were irrelevant to our decision making process.

The Congressional Budget Office worked closely with the conferees—and I was one of those conferees—to the prescription drug bill and the staff of our Finance and Ways and Means Committees to ensure a full analysis of the projected costs was completed. The conferees and the staff regularly and constantly consulted with the Congressional Budget Office throughout the development of the Senate bill and in the preparation of the conference agreement.

The Congressional Budget Office worked nearly around the clock and on weekends for months to complete an extremely thorough and rigorous cost analysis of the prescription drug bill. That cost estimate—our official cost estimate, straight from the god of Congress's finance estimating, the Congressional Budget Office—was available to every Member of Congress before the measure was presented to the House and Senate for a vote.

It is also pretty disingenuous for opponents of the Medicare bill, especially on the other side of the aisle, to suggest the pricetag for the Medicare bill causes concern because the fact is they supported proposals that cost hundreds of billions of dollars more. You would think they would say: Thank God for the Center for Medicare Services that this bill is going to cost \$134 billion

more than what the Congressional Budget Office said it was going to cost because we like to spend money. We want to spend more on Medicare prescription drugs.

The House Democratic proposal, for instance, last year would have cost \$1 trillion compared to the \$395 billion the President signed. The Senate Democratic proposal in 2002 cost \$200 billion more than the bill that was enacted into law.

Further, there were more than 50 amendments offered on the floor of the Senate during the debate on the Senate bill that would have increased the cost of the bill by tens of billions of dollars.

The bottom line is, there should be no doubt in anyone's mind we had as true a cost estimate—or if they want to put it in their words, the true cost estimate—for the prescription drug bill last year. Everyone had access to it before the vote.

But let me explain to the people of this country that whether it is the Congressional Budget Office or the Center for Medicare Services, when they look ahead 10 years, and the farther out you go, it is a fairly imprecise way of deciding what a bill we passed last year is actually going to cost. The true cost is going to be known on that 10th year.

But these professional people with green eyeshades, without any political predilection, study what we put on paper and they say: Senator GRASSLEY, as chairman of the Finance Committee, if you do this, it is going to cost X number of dollars. So if it does not all fit into \$400 billion, you kind of tailor it to fit, because if you do not, you are going to be subject to a point of order and you will have to have 60 votes to override it.

I hope I have once again cleared up any misunderstandings about these issues. We should move on and not lose sight of what really matters: helping our Nation's seniors get the drugs they need at lower prices through the Medicare discount card, and \$600 of additional assistance, which beneficiaries can begin enrolling in next week, and through the voluntary Part D drug benefit in 2006, which is what really matters.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. TALBENT). Morning business is closed.

#### INTERNET TAX NONDISCRIMINATION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 150, which the clerk will report.

The assistant legislative clerk read as follows:

A motion to proceed to the bill (S. 150) to make permanent the moratorium on taxes

on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee controls 2 hours of time.

Who seeks recognition?

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, yesterday we began our discussion of legislation which, if it should pass, would be a Federal law giving a tax break or a subsidy to the high-speed Internet industry, and the Federal law would then send the bill for that to State and local governments. There is a bipartisan group of us who object to that, who believe if Congress wants to give a subsidy to the fastest growing technology, high-speed Internet access, then Congress ought to pay for it and not send the bill to State and local governments.

I, for one, also question whether there is any need to spend additional taxpayer dollars on this sort of subsidy since, as far as I can tell, high-speed Internet access must already be the most heavily subsidized technology in the country. But, nevertheless, we have reached a point in the discussion where we are trying to create a compromise result.

To go back through a little bit of history, the House of Representatives sent a bill to the Senate toward the end of last year, and that bill, while it was named "Internet tax moratorium," did much more than that. It purported to make permanent the temporary time-out from taxes the Federal Government set in 1998, and then renewed in 2000, on State and local taxation of Internet access, but the bill did much more than that.

As I pointed out at length last night, the House bill exempted this industry from a great many State and local taxes—telephone taxes States currently collect, business taxes States currently collect, more business taxes, and then sales taxes. So for all of these, we had the Federal Government saying to the State governments: You cannot do this; You cannot collect these taxes.

We have a phrase for this. We call it unfunded Federal mandates. It means: Do no harm to State and local governments.

The Republican majority was elected in 1995, promising to end the practice of we Congressmen and Senators coming up with some big idea, taking credit for it, and then sending the bill to State and local governments. So we went to work to try to change the bill. Senator CARPER of Delaware and I and nine other Senators of both parties offered a compromise. We said: Since the Federal Communications Commission, and since Senator MCCAIN and the Commerce Committee, and Senator STEVENS, our President pro tempore, and others, have said we need to take a comprehensive look at this phenomenon of digital migration of services to the Internet that is being

caused by this new high-speed Internet access, since we want to do that, let's take a comprehensive look at it, so let's just extend the old moratorium for a couple more years.

In the meantime, let's try to create a level playing field so all high-speed Internet access providers are treated the same and do no harm to State and local governments. That is the Alexander-Carper proposal.

The majority leader and Senator MCCAIN and others asked me and Senator CARPER to work with Senator ALLEN and Senator WYDEN and others to see if we could narrow our differences. We did, but we still had differences.

As I pointed out yesterday, Senator ALLEN's bill, S. 150, which is the bill we are now considering, is permanent, not temporary. It still puts at risk \$3 to \$10 billion that State and local governments collect. It also causes the sales taxes that were being collected to expire.

Let's recall that what we are talking about is not lowering anybody's taxes. If you lower one tax, another tax is going to go up, or the government is going to be cut. Lower taxes for the service industry means higher taxes for somebody else. That is a fact.

Then Senator MCCAIN came to the floor yesterday and offered a new proposal. I want to comment for the next 3 or 4 minutes on that. I have written Senator MCCAIN a letter outlining my reaction to it, which I hope is being delivered now, but since we only received his proposal yesterday afternoon at about 2:15, I want to let the full Senate and others know my reaction to his proposal.

First, I appreciate his proposal and his efforts to create a compromise. We all want a result. That is why we are moving ahead at 2:15 to consider his proposal. Unfortunately, Senator MCCAIN's new proposal still harms States and still creates a huge loophole for the high-speed Internet industry.

Let me be specific. No. 1, the definition that the McCain proposal uses is the same definition the Allen-Wyden proposal uses. That definition eliminates \$500 million annually of telephone taxes, business taxes that State and local governments collect today. That is an unfunded mandate.

No. 2, the bill does not protect States and their ability to make a decision about whether to continue collecting taxes on telephone services. This is very important to State and local governments. Last year, according to the National Governors Association, State and local governments collected \$18 billion in taxes on telephone services. In the State of Tennessee, it was \$361 million. In California and Florida and Texas, it is more than \$1 billion. It is 5 percent of our State budget. Almost every State is affected by this. While Senator MCCAIN's legislation in one section appears to try to protect telephone calls made over the Internet so that States may choose to continue to