

the two leaders or their designees, and no amendments or motions be in order to the bill; that at 4:45 p.m. the Senate vote on cloture to the bill and that motion to be filed upon reporting of the bill; if cloture is invoked, the bill be read a third time and the Senate vote without any intervening action or debate on passage of the bill.

Mr. McCONNELL. Madam President, reserving the right to object, and I will not object, let me echo the observations of the majority leader about how important the children's health insurance issue is.

This was a measure that originated with a Republican Congress back in the 1990s. I think we are going to be able to get this worked out after this skirmish that has been going on over the last few weeks in a way that will guarantee additional poor children receive the health insurance they certainly richly deserve.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The chair hears none, and it is so ordered.

Mr. REID. I thank the Chair.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 3963) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 450, H.R. 3963, the Children's Health Insurance Program Reauthorization Act of 2007.

Max Baucus, Harry Reid, Benjamin L. Cardin, S. Whitehouse, Robert Menendez, Daniel K. Inouye, Jack Reed, Barbara Boxer, Pat Leahy, Bernard Sanders, Ken Salazar, Kent Conrad, Ron Wyden, Byron L. Dorgan, Debbie Stabenow, Bill Nelson, Robert P. Casey, Jr.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, earlier today I joined with several of my colleagues—the good Senator McCASKILL and Senator CASEY and a distinguished leader on children's health, Dr. Woodie Kessel—to speak out on the children's health legislation we are considering in the Senate.

Dr. Kessel is an extraordinary public health official, a pediatrician who has been widely acclaimed and recognized

by virtually all the medical societies for his lifetime commitment to children. He worked in Republican and Democratic administrations and feels passionately about the importance of the passage of this CHIP legislation.

Dr. Kessel spoke of a recent presentation of the American Academy of Pediatrics on the value of investing in children's health provided by Dr. James Heckman, the Nobel laureate in Economics. I wish to share his words with the Senate today, as they make a persuasive case for the bill that is before us. This is a direct quote from the Nobel laureate.

It is a rare public policy initiative that promotes fairness and social justice and at the same time promotes productivity in the economy and in society at large. Investing in disadvantaged young children is such a policy. Early interventions for disadvantaged children promotes schooling, raises the quality of the workforce, enhance the productivity of schools and reduce crime, teenage pregnancy and welfare dependency. A large body of research shows that skill begets skill; that learning begets learning. The earlier the seed is planted and watered, the faster and larger it grows.

That is what our bill is all about. Investing in America's future, investing in our children. If we give them the chance for a healthy start to life, we will reap the rewards for decades to come in terms of better education and a more productive workforce. If, instead, we succumb to the politics of fear and division coming from the White House, we consign 10 million American children to a dimmer future.

The CHIP program is an education issue because we know children who are sick—unable to see the blackboard, unable to hear the teacher, unable to read the book or understand the homework—are not going to learn. So this is a health issue and it is a children's issue. It is a children's issue because it affects the 10 million children.

It is a working families issue because this is targeted to the children of working families, more than 92 percent for those families earning under 200 percent of poverty, about \$42,000 for a family of four. So it is a working families issue.

It is a fairness issue. Particularly in the Senate, when we cast our votes this afternoon—we are getting paid \$160,000. Our health insurance for all the Members of the Senate—with the exception of one individual—for all the Members, is paid for by the American taxpayers, 72 percent: 72 percent of our health insurance; every Member. We have the best. I have believed that since I have been involved in the health issue since arriving in the Senate, and I was reassured of that in the last couple weeks when I needed medical attention. We have the very best. We can go down to the dispensary in the Capitol of the United States and see some of the finest medical personnel in our country. We can go to Walter Reed, we can go to Bethesda Naval Hospital, places where the President and the Vice President and Cabinet and other Members of Con-

gress have gone, and we get our health care paid for, effectively, in full.

Yet we are going to vote to deny the working families of this country, people who are making 200 percent of poverty—\$40,000, these are working families in this country—the opportunity to have their children covered?

That is the issue, that is the fairness issue, that is the values issue, and that is the issue before the Senate this afternoon.

We know when these children get the healthy start, as the Nobel laureate pointed out, they are more productive, they are more effective. They are going to be more effective and more productive and healthier for their lives. They are going to be more lively, in terms of the world economy and the knowledge-based competition we are going to be facing in a world economy. They are going to be more effective as leaders, in terms of our national security. They are going to be more gifted and talented, in terms of implementing rights and liberties and having our democratic institutions function and work the way our Founding Fathers wanted them to work.

This is an enormously important bill that reaches the heart and soul of what this country is all about. I am hopeful we will have a strong, overwhelming vote in favor of moving ahead and achieving our objective.

NOMINATION OF MICHAEL B. MUKASEY

Madam President, I intend to oppose the nomination of Michael B. Mukasey to be the next Attorney General of the United States.

This is a nomination I had hoped to support. There is no doubt the Department of Justice is in desperate need of new leadership. Under Attorney General Alberto Gonzales, the Department was transformed from a genuine force for justice into a rubber stamp for others in the administration who cared little for the rule of law.

The Office of Legal Counsel, and the Attorney General himself, repeatedly authorized programs of torturing detainees and wiretapping Americans that were both illegal and immoral.

Career attorneys who spoke up were marginalized or transferred to dead-end jobs. U.S. attorneys were fired if they refused to take orders from the White House as to who should be prosecuted.

The Civil Rights Division turned its back on its historic mission, and failed to vigorously enforce our civil rights laws. Instead of protecting the rights of all Americans, it spent time approving voter-identification laws that keep the poor, the elderly, and minorities away from the polls, and investigating phantom allegations of "voter fraud."

There has never been a time when the Department of Justice was more in need of a new direction, away from partisanship and back to its critical responsibility of protecting our rights and enforcing our laws.

We all hoped that Michael Mukasey could provide that needed leadership.

He had served with distinction as a Federal judge for almost 19 years. By all accounts, he was smart, fair, and conscientious in the courtroom. In some cases, he showed admirable independence, rejecting some of the administration's most extreme legal arguments. He has the credentials and many of the capabilities to be a strong Attorney General.

But talent and experience are not all that is required for the job. The Attorney General of the United States must also be a person with an unbending commitment to justice, fairness, and equality, who will stand up for America's laws and values, even when the White House tries to steer the Department in the other direction.

I have had the chance to meet with Judge Mukasey, to listen to his testimony in the Senate Judiciary Committee, and to read through his answers to written questions submitted by committee members. I cannot in good conscience support his nomination.

My concerns begin with Judge Mukasey's answers to our questions about waterboarding. Waterboarding is a barbaric practice in which water is poured down the mouth and nose of the detainee to simulate drowning. The Nation's top military lawyers and legal experts from across the political spectrum have condemned this technique as a violation of U.S. law and a crime against humanity. Following World War II, the United States prosecuted a Japanese officer for engaging in this very practice, and that officer was convicted and sentenced to 15 years of hard labor.

Waterboarding is torture. Period. Yet Judge Mukasey refuses to say so.

His refusal was so extraordinary and unexpected that we asked the Judge a series of further questions to help us understand why an able, experienced lawyer would find it so difficult to agree that a practice used in the Spanish Inquisition was torture. But our questions were met with equivocation and evasion. Judge Mukasey told me that my questions about the legality of waterboarding were the kind of hypothetical questions that judges commonly refuse to address. But he has been nominated to be Attorney General, and an Attorney General, unlike a judge, is often called upon to determine whether an action would be legal before such an action is taken.

However, it is not just his remarks on waterboarding that trouble me. Judge Mukasey also evaded a wide range of questions on torture. He refused to commit to sharing with Congress the legal opinions of the Office of Legal Counsel that have authorized coercive interrogation techniques. He suggested that Common Article III of the Geneva Conventions, the basic international standard for humane treatment, may not always apply to the treatment of enemies we capture, even though the Supreme Court has rejected that view. He would not even

say whether it would be unlawful for enemy forces to subject Americans to "painful stress positions, threatening detainees with dogs, forced nudity, waterboarding and mock execution."

These extreme views are not only immoral and legally flawed, they also increase the risk that our own troops will be subjected to barbaric treatment.

Judge Mukasey could not even bring himself to reject the legal reasoning behind the infamous Bybee "torture memo." That memo stated that physical pain amounted to torture only if it was "equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death." Anything that fell short of this standard would not be torture, according to the memo.

CIA interrogators called this memo their "golden shield," because it allowed them to use virtually any interrogation method they wished. When the memo finally became public, however, the country was appalled and the memo's flaws were quickly exposed. Dean Harold Koh of Yale Law School wrote, "in my professional opinion as a law professor and a law dean, the Bybee memorandum is perhaps the most clearly legally erroneous opinion I have ever read." The Bush administration was so embarrassed that it withdrew the memo.

When I said to Judge Mukasey that his testimony left "the alarming impression that you may agree with [the memo's] legal reasoning," he did nothing to remove that impression. He said that the memo was "a mistake," but he could not bring himself to reject its flawed reasoning.

There are only two possible explanations for Judge Mukasey's testimony on this issue. The first is that he genuinely believes that waterboarding may not always be torture, that international law does not fully protect American POWs, and that the withdrawn Bybee memorandum was not deeply flawed. If those are his beliefs, he is so far out of the mainstream of legal thought in this country that he should not serve as Attorney General.

The second explanation is that Judge Mukasey has already begun defending President Bush's administration, instead of standing up to it when the rule of law requires it. It is quite possible that Judge Mukasey knows that waterboarding is torture, that international law protects American POWs, and that the Bybee memorandum was a moral and legal abomination. But he refuses to say so, because such answers would be deeply inconvenient to the Bush administration.

Time and again, Judge Mukasey told us that he would be independent of the White House, that he understands that the Attorney General is not simply the President's lawyer, but is the guardian of the law for all Americans. I would like to believe Judge Mukasey. But if this issue was the first test of his independence, he has failed it.

Judge Mukasey's answers to our questions on torture remind me of nothing so much as the responses to the Senate on these issues by Attorney General Gonzales. Mr. Gonzales adopted an absurdly narrow definition of torture in order to permit extreme interrogation practices. He ignored the plain language of the Geneva Conventions prohibiting cruel and humiliating treatment.

He withheld his views on how to interpret and enforce our laws against torture and cruel, inhuman, and degrading acts. He refused to discuss specific interrogation techniques or to repudiate the Bybee memo. He refused to take any firm positions.

Judge Mukasey may have dressed up his responses in more skilled legal rhetoric, but the difference between his answers and those of Mr. Gonzales is disappointingly small.

Judge Mukasey's answers make clear that this administration simply cannot be trusted ever to renounce torture. Congress, therefore, must act now to strengthen our ban on torture. I have already introduced a bill to do that: The Torture Prevention and Effective Interrogation Act. It will apply the standards of the Army Field Manual to all U.S. government interrogations, not just Department of Defense interrogations. This basic reform will ensure that our government honors its commitment to the rights enshrined in the Geneva Conventions, which protect the values we cherish as a free society and the lives of our men and women overseas. I intend to move that legislation at the earliest possible time. Congress needs to pass it promptly.

While Judge Mukasey's views on torture are reason enough to oppose his nomination, I found little comfort in other areas as well.

For instance, Judge Mukasey argued that the President has substantial spheres of exclusive powers over which the other branches of government have no control whatever. He indicated that the President may indefinitely imprison a U.S. citizen, seized on U.S. soil, without charges, solely on the President's determination that the person is an "enemy combatant." He ridiculed critics of the PATRIOT Act. He stated that the President may sometimes violate or disregard the Foreign Intelligence Surveillance Act, despite that law's clear statement to the contrary.

Judge Mukasey also argued that the Authorization for Use of Military Force, passed by Congress immediately after the 9/11 attacks, may have authorized the President's warrantless surveillance program that was used to spy on millions of Americans for over 5 years. That is a ridiculous legal argument, which legal experts have debunked time and time again. In these statements and others, Judge Mukasey left the troubling impression that the executive branch can run roughshod over the constitutional role of the other branches and the civil liberties of Americans.

When I met with Judge Mukasey, I made clear that the Civil Rights Division is failing in its historic mission. As civil rights legend John Lewis recently testified, the division has "lost it's way." It will take clear, strong leadership to ensure that the division once again vigorously enforces the Nation's civil rights laws. When we met, I suggested specific reforms, and I mentioned published studies that have done the same. Yet when I asked Judge Mukasey about his specific plan for the Civil Rights Division, he gave only vague answers. He never acknowledged that the division is in need of reform, and he never provided any concrete ideas on how he would revitalize the division. There was nothing in his answers to suggest that as Attorney General, he would enforce our civil rights laws with the skill and vigor that are necessary to guarantee equal justice and equal opportunity for all Americans.

I therefore intend to oppose this nomination. Judge Mukasey appears to be a careful, conscientious and intelligent lawyer, and he has served our country honorably for many years. But those qualities are not enough for this critical position at this critical time. Over the past 6 years, the Bush administration has run roughshod over the rule of law, and has taken the Department of Justice along for the ride. In light of that history, the Senate must demand an Attorney General who will speak truth to power, and follow the law, no matter what the consequences.

Judge Mukasey's equivocations and evasions on critical issues give me no confidence that he will fulfill this vital role. After 6 long years of reckless disregard for the rule of law by this administration, we cannot afford to take our chances on the judgment of someone who either does not know torture when he sees it or is willing to pretend so to suit the President.

Mr. President, I ask unanimous consent when the Senate goes into a quorum call, the time be equally divided between the parties.

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

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

The PRESIDING OFFICER (Mr. SALAZAR). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BROWN. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

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

PRODUCT SAFETY

Mr. BROWN. Mr. President, Halloween has come and gone. Yet there are too many parents I have talked to in the last couple weeks who have some fear, who have been scared about some

of the toys that have come into our country; where they see "Made in China" and they have seen news reports and have seen and heard about products tested that have lead content.

A professor at the University of Ashland, in Ashland, OH, about 15 miles from where I grew up in Mansfield, OH, has been a leader, with his chemistry students at Ashland University, in testing for lead in toys.

I asked him if he would test some Halloween products, if you will, some Halloween toys and various paraphernalia. He found out of 22 products he tested, 3 of them had high levels of lead. In fact, the Consumer Product Safety Commission has said that anything over 600 parts per million of lead is dangerous for adults, and any lead at all is dangerous for children.

He found in a Frankenstein mug he bought locally at a store in Ashland—and they are sold all over the country, I am sure—he found a Frankenstein mug that had 39,000 parts per million of lead—39,000—when the level of safety for adults is 600, and the level for children is zero. He found a Halloween cup that was 39,000 parts per million.

We have read all about the Consumer Product Safety Commission and how they have failed the American people and how the chairwoman is lobbying against the legislation of Senator PRYOR to make the Consumer Product Safety Commission work better; how she has supported the Bush administration, as an appointee of them, in cutting funding for inspections and cutting funding for enforcing consumer product safety.

But this shouldn't surprise us when we buy \$288 billion worth of products from China, as we did last year, not to mention hundreds of billions of dollars of products from other countries, and tens of billions of dollars of those products are consumer items certainly—tens of billions of dollars worth of tires, vitamins, toys—all kinds of things. Those products are made in a country where they have weak worker safety standards, they have almost nonexistent consumer protection laws and rules, they have very weak food safety standards, very weak environmental safe drinking water and clean air standards.

So we shouldn't be surprised when we buy products from a country where these products are produced doesn't have any kinds of protections themselves for their own workers and for their own consuming public. That is compounded by the fact that American companies such as Mattel, toy companies and other companies, when they go to China, they hire Chinese subcontractors and they push these Chinese subcontractors to cut costs: You have to cut costs and cut corners and make these products cheaper. So what logically will they do? They will use lead-based paint because it is cheaper, easier to apply, dries faster, and it is shinier. They will put contaminants in vitamins because it is less expensive

than using the pure, real ingredients that should be in them. As the New York Times pointed out yesterday in a frontpage story, they will sell pharmaceuticals out of China that are contaminated and unsafe for consumers in China and all over the world.

So you have a situation where we open our borders, as we should, to trade. I want trade. I want more of it. I want plenty of it. But I want it under a different set of rules, most importantly to protect the American public and our families and our children. But we open up our borders to \$288 billion of Chinese products. They don't make these products safe for their own people, let alone for the United States. They cut costs to export those products here, and then when these importers bring them in, Mattel or anybody else, they are not held accountable. If Mattel is going to bring toys in, then they are responsible for those toys being safe—any importer that brings products in, whether it is apple juice, whether it is vitamins, whether it is toothpaste, whether it is dog food, whether it is toys, whether it is tires. Every one of those products has had a major problem, and every one of those products I mentioned was imported from China and from Southeast Asia.

At the same time, then, we have a complicit or a compliant—I am not sure which—Bush administration which has weakened consumer protection laws, food safety laws, clean air laws, safe drinking water laws, and it has weakened drug safety laws. We have a Bush administration which has weakened those laws and then underfunds and cuts back on the number of inspections. So the products are made in a country where they are not likely to be safe, they are brought in by an American contractor who has pushed those subcontractors to do it more cheaply; they are then brought in with no personal or corporate responsibility by the importer, and then we have a government which doesn't protect us. For 50 years, in some cases more than 50 years, and in others slightly fewer than 50 years, we have had an FDA, Food and Drug Administration, an EPA, a Consumer Product Safety Commission, and the Environmental Protection Agency, we have had these agencies which have protected the air, the water, the food, the medicine, the toys our consumers buy.

What has happened over the last 5 years is that they have weakened the standards and cut back the number of inspectors, even though 20 years ago when the Environmental Protection Agency was much larger and did many more inspections, we are now importing all kinds of toys and food products that we weren't importing back then. So we have set ourselves up—because of the Bush administration's closeness to the toy companies and other corporations, the Bush administration has sided with the drug companies over the consuming, medicine-taking public, the Bush administration has sided with

the big polluters and they weakened the EPA; they sided with the big toy companies and weakened the Consumer Product Safety Commission. So it is no surprise our children are not as safe and our food supply is not as pure as it should be. It doesn't matter to point fingers, but the fact is we have set this system up, in part because of trade policy that is written by the largest corporations in the country to serve their shareholders and to serve their executives at the expense of workers overseas, at the expense of workers in our country, and at the expense of the consuming public: our children and their toys in their bedrooms and our families in the food they buy for their kitchen tables.

Yet Congress—the House and Senate—perhaps is about to pass another trade agreement. We have seen these trade agreements with China, with Mexico—the Central American Free Trade Agreement, NAFTA, CAFTA, PNTR with China—we have seen these trade agreements weaken our safety regulatory structure. These trade agreements in part are responsible for weaker environmental standards, for weaker food safety standards, for weaker consumer protection laws, for weaker food and drug safety rules. Yet Congress is about to pass, it looks like, a trade agreement with Peru, with some of the same problems. It is a better trade agreement. It has some labor and environmental standards, but it doesn't have the kinds of protection for food safety, the kinds of protections for drug safety, the kinds of protections for consumer products as it should.

Instead of passing another trade agreement, Congress should simply stop. We should reexamine our consumer protection laws, our food safety laws, our safe drinking water and clean air laws, our drug safety laws. We should stop and examine them. We should stop and not pass any more trade agreements until we have reexamined what NAFTA has meant, what CAFTA has meant, what PNTR with China has meant, and a whole host of other trade agreements. Then we can move forward and write trade agreements that don't just serve the interests of the largest companies in the world, as they have in the past, but trade agreements that work for workers, trade agreements that protect the public, protect our jobs, protect our food supply, and protect our children from dangerous toys. If these trade agreements are done right, they will lift up standards not just in Mexico and Central America and China, but lift up standards in this country so we know we will have pure food and safe drinking water.

We know from these trade agreements that we will have safe toys with no lead in them, and we know it will be better for our communities, from Galion to Gallipolis to Ashtabula to Middletown in my great State of Ohio.

Mr. President, I yield the floor.

I suggest the absence of a quorum, and I ask unanimous consent that the

time on the quorum call be evenly divided between the two parties.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CARDIN. Mr. President, quite frankly, I don't understand the objections of the President of the United States to the Children's Health Insurance Program we are considering here today. I hope we all understand the importance of this program and how important it is for children in America to have health insurance. We know, and we have a lot of studies which show, that children who have health insurance are far more likely to be immunized against diseases, far more likely to have the benefits of preventive health care, are far more likely to get the type of health care intervention that will lead to healthier lives. Quite frankly, that will save us money because they are going to be healthier and need less health care during their lifetime. We also know that children who have health insurance are far more likely to have better attendance records at school. The list goes on and on and on. So it makes sense for children to have health insurance.

The legislation we are considering is aimed at working families—working families that cannot afford the cost of health insurance. These are families playing according to the rules. They are doing everything right, but they can't afford the cost of insuring the family with health insurance.

A family from Baltimore came and testified before the Presiding Officer's committee for the reauthorization of the CHIP program. The mother explained that having children's health insurance—having the Maryland program—that mother no longer has to wake up in the morning and decide whether the child is sick enough to see a doctor. She doesn't have to worry that if her child is playing on a playground and gets hurt, how they will be able to afford that bill.

Our children are the innocent casualties of the failure of our country to have universal health coverage—universal health insurance. They are the innocent casualties. The bill we have before us tries to do something about it.

This is a bill that is not a Democratic bill or a Republican bill; it is a bill that has been compromised in the best sense of the legislative process: Democrats and Republicans working together to produce a bill that could be supported not just for 1 year but supported now for a decade. It is a bill that builds upon private insurance. That was important to get the consensus among Democrats and Republicans. It is a bill that is administered

by our States; it is not administered in Washington. This is a program that our States administer. I am proud of the State of Maryland MCHIP program, the Maryland Children's Health Insurance Program. It is designed in Maryland to meet the needs of our children, and the Federal Government is a partner in helping to pay for the program. This is a bill that has been worked in the best sense of the legislative process, by Democrats and Republicans.

It is an affordable program. I have heard the President of the United States talk about the affordability. This program is affordable. First, as I mentioned earlier, it saves health care dollars. Children who have access to preventive health care are going to save us money over the long term in health care expenditures. Secondly, this bill is paid for. I know that is not always the case with legislation we pass, but this bill will not add a penny to the deficit. In fact, I would argue that this bill will actually help us in balancing the Federal budget. It is fully paid for by an increase in the cigarette tax, but economists tell us that as a result of the increase in the cigarette tax, there are going to be millions of people who will either stop smoking or will never start smoking—particularly young people who won't start smoking now because of the extra cost in buying a pack of cigarettes. The Presiding Officer and I know how much that will save in our health care system for someone who doesn't smoke. That is not figured into the cost estimates here, the savings we will have to our health care system because of the number of children who will never start smoking.

In Maryland, this bill will mean that Maryland will not only be able to continue the 100,000 children who are currently enrolled in the program—because if we don't pass this bill, we can't continue our current commitment—but will add 40,000 more children to the Maryland Children's Health Care Program.

That is good. We need to do that. Let me remind you that, in Maryland, we have 800,000 people without health insurance. That is not just children, that is the whole community that has no health insurance. Obviously, we want to reduce that number. This bill makes a small step in dealing with the gap we have in America where people have no health insurance, but it is an important step because it deals with children. We can certainly do that.

I wish to talk about one part of the program that, quite frankly, hasn't gotten a lot of attention, and it is a very important part, which is the reason we need a reauthorization bill. In a reauthorization bill, we can expand the program to deal with the needs in our communities. This bill covers required dental services, so all the children in the Children's Health Insurance Program will receive dental insurance coverage.

C. Everett Koop, a former Surgeon General of the United States, says,

“There is no health without oral health.” Again, he is a former Surgeon General. The American Academy of Pediatric Dentistry said dental decay is the most chronic childhood disease among children in the United States—five times more likely than asthma. Regarding the vulnerability of our children, of those children between the ages of 6 to 8, 50 percent have tooth decay. If you are poor and live in poverty, you are two times more likely to have a problem with your teeth. If you happen to be a minority—if you are an African American, 39 percent of them have untreated tooth decay. If you live in a rural part of your State—Mr. President, I know your State and my State have rural communities—only 11 percent of our population ever visit a dentist. We have a problem with dental care in this country. Twenty-five million Americans live today in areas that have inadequate dental care services. So we can do better, and this bill moves us in the right direction. There is a direct relationship between general health and oral health. We know that. One example: Plaque has been directly related to problems with heart disease. We know there is a relationship there, and there is a lot to be learned.

I am going to try to put a face on this issue because we talk about what it means to have 25 million people who don't have access to dental services. I will tell you about one child, Deamonte Driver. He lived in Prince George's County in my State, which is about 6 miles from here. He was a 12-year-old who had problems with his teeth. His mom tried to get him to see a dentist and could not find one who would treat him. He sort of fell through the cracks.

Finally, he was suffering from horrible headaches, so his mother did what many parents do with children who don't have health insurance—took the child to the emergency room. One of the reasons we want to see the CHIP bill passed is to get children less expensive preventive health care so they don't have to use emergency rooms as primary care facilities. He went to the emergency room, and he was admitted. It seemed as if he didn't just have tooth decay, he had an abscessed tooth that went untreated. No dentist would see him. He had no insurance. They performed an operation and tried to alleviate his pain and save his life. They performed a second operation and spent a quarter of a million dollars, which we paid for because it was uncompensated care. That boy died because, in 2007, we have no program in this country to provide that child an \$80 tooth extraction and for children to be able to see dentists.

Mr. President, one of the really good things about this bill before us—our reauthorization bill—is we have a chance to do something about that. We have a chance to do something about the Deamonte Drivers of our communities, to make sure our innocent children get the type of attention they so much deserve.

What does this bill do for dental care? It has a guaranteed dental benefit, coverage of dental services necessary to prevent diseases, promote oral health, restore oral structure to health and function, and treat emergency conditions. That is what is covered in this legislation which we will vote on in a few hours. How do you meet that? It is interesting. The States are giving benchmarks. You can do it if you have a benefit like ours, our Federal plan, in which dental benefits are included. The State can meet the requirements by providing the benefits Federal employees get. They can take the dental benefits in their State employees' plan and use that as a model or they can take the most popular commercial plan in their State for enrollment for Medicaid enrollees and use that as their benchmark.

So when you are using commercial insurance as the benchmark for what children should be able to have insurance to deal with their dental needs, to me, that is the way we should be going. It is in this bill.

This is even more important. The bill provides for dental education for parents of newborns. When babies are born, they don't have teeth, so why is that important? One out of every five children between the ages of 2 and 4 has tooth decay in their baby teeth. This bill provides for education so that parents know about the risks of oral health and know how to deal with oral health as their babies grow up. It also makes it easier to locate a participating provider.

Let me go back to Deamonte Driver again, from Prince George's County. His parents sought the help of a social worker, Laurie Norris, who tried to find a dentist who would treat Deamonte Driver. That social worker made over 20 phone calls to try to find a dentist who would treat Deamonte Driver—without success. Think about the time that went into that. Think about how many parents must be so discouraged in trying to get help for their children.

Well, this legislation before us today, which we will vote on in a couple of hours, does something about that. It requires that the Web page on the Children's Health Insurance Program list the coverage available by State for dental benefits under the CHIP program, plus the list of providers who will provide that care. So if this bill becomes law, with one phone call or one click of the mouse, a parent will be able to know exactly what the benefits are and exactly which dentist that parent can contact in order to get his or her child the type of care they need.

I have heard my colleagues talk a lot about this Children's Health Insurance Program, how important it is to the health of the people in our communities. I know how important it is in Maryland. I am proud of our program at the State level, which has the cooperation and help of the Federal Government as a partner. It is a bipartisan

bill, developed by Democrats and Republicans, and the bill makes sense from the point of view of proper allocation of money in our health care system and will save us money—all of those things.

At the end of the day, it does speak about priorities. What is important? Where are our priorities? What do we want to be known for? Whom did we stand up for?

This bill spends \$35 billion over a 5-year period, and it is fully paid for. We can all make our own comparisons, but I think about the cost in Iraq, which, over a 3-month period, is costing more than this bill, and it is not paid for, but we seem to always have the money for that. And we come up with excuses to oppose this legislation.

I thank the leaders who were responsible for bringing this legislation forward. I urge my colleagues to support it. I hope we can get the type of support we need to pass this, notwithstanding the objections of the President. I always hold out hope that President Bush will sign a bill—a bill that will allow the people of Maryland and throughout this country to have adequate care so that we don't have to again see a story such as Deamonte Driver's—a child who died because we could not find a way to get him basic dental care.

I urge my colleagues to support this legislation.

With that, I yield the floor.

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

IRAQ WAR COSTS

Mr. MENENDEZ. Mr. President, I rise to speak once again about the cost of the war in Iraq here at home. This is the third speech I have stood up to give in the series that I intend to continue to give about what the Iraq war is costing us here at home, beyond the immeasurable cost of lives. Over 3,839 American lives have been lost—those are priceless—and 28,327 Americans have been seriously injured in the service of their country.

Since I started giving these speeches 2 weeks ago, \$5 billion more has gone from the Treasury and has been spent in Iraq. It brings the total amount taken from the American people's pockets to \$455 billion. Next month, another \$10 billion will be sent over to Iraq, and it will be gone forever.

Americans trusted the Government with that money. When the numbers are that outrageously high, we all have to constantly be asking ourselves a simple question: What is going to make a bigger difference in our lives—using the money to fix the major problems we have facing the Nation every day or fighting a war that has achieved nothing for any of us? Could America have achieved more out of that money spending it on hospitals or lifesaving cancer research, schools and universities, food for the needy, roads, train tracks, bridges and airports, or the catastrophe that is the war in Iraq?

President Bush likes to use the line that “we are fighting them over there

so that we don't have to fight them here." I think Americans have figured out that what he really means is we are spending all of our money over there, and therefore we have none to spend here.

I have already spoken out about the massive holes in our homeland security that the war funding in Iraq could have closed being used here at home. I have spoken about the difference that funding could have made for millions of Americans who have to play Russian roulette with their lives because they simply don't have health insurance, including millions of children who would be covered under the bill which is currently before the Senate, a bill the President threatens once again to veto while asking for \$200 billion more in war funds this year alone—funds which, by the way, he doesn't even pay for. He wants to make his fiscal bones on the backs of children who have no health care coverage. They are the most important asset we have in our Nation and also the most fragile asset we have in our Nation. He says: Well, this bill is not fiscally acceptable. Yet he can, at the same time, send a request to us for \$200 billion, which he doesn't pay for. Not only does he not give children their health insurance, he adds a mountain of debt on their backs for the future. That is totally irresponsible.

I have talked many times about children's health insurance. I note, too, as we move to this vote, I don't know why there are still some advocating knocking parents off children's health insurance. Children and parents together successfully brought in more children to the program. Why is it that there are those Members of Congress who want to push more Americans into the vast number of the uninsured in this country? Because that is what they are advocating at the end of the day.

Today I wish to talk about what America would look like if we spent the money George Bush is spending on failing to rebuild Iraq to repair our own battered infrastructure at home. Yes, we are spending a lot of money, billions of dollars in Iraq, with which we fail even to rebuild Iraq. Not only are we failing to rebuild Iraq, we certainly do not have the resources at home.

Is it the Iraq war or better transportation in our country? There is no way to put a price tag on the immense frustration we feel with our systems of transportation. If you have ever slammed your hands on the steering wheel because traffic is unbearable so you are going to miss your meeting or be late to pick up your child at school, if you ever had your train delayed or have been jammed inside a subway car that was not built to carry the number of people who are stuffed in there, if you have ever been stuck waiting in an airport terminal or trapped on a plane sitting on a tarmac waiting to take off hour after hour, then you know our transportation systems are stretched

to the limit, and sometimes they break.

Thirteen people paid the ultimate price and 100 more were injured at the terrible, tragic collapse of the bridge in Minnesota a few months ago. It is scary how easily that could happen again. Here is a truly shocking statistic. The number of bridges that are either structurally deficient or functionally obsolete in this country is enormous. It is about 160,000 bridges, 25 percent of all the bridges in the country. That means if you have driven over four bridges, the odds are that one of them is not in particularly great shape, and that is incredibly scary.

What does it cost to stop another tragedy such as the one in Minneapolis from happening? The American Society of Civil Engineers estimates that the cost of maintaining and replacing obsolete or deteriorating bridges is about \$7.4 billion a year. That is the cost of staying even, not allowing the overall quality of our bridges to further deteriorate.

If we spent on transportation what we spend on the Iraq war, we could pay off the entire cost of what the Society of Civil Engineers estimates would be the cost of maintaining and replacing all those obsolete or deteriorating bridges in 22 days. We could take care of every bridge in America and make everybody safer in 22 days for the cost of the war in Iraq—22 days. That is another example of what the war costs: bridges you can feel confident about, that you will get home safely to your family versus less than a month in Iraq.

Today construction is beginning on the Minneapolis bridge that will replace the one that collapsed. The cost: \$234 million. We spend that money in Iraq in less than 1 day.

Americans are also feeling the hassle of commuting by car or plane, especially for long distances. Oil prices are hitting record highs. Many feel that petroleum production is reaching a peak. Burning oil thickens our air with smog and stokes the fires of the global climate crisis, threatening to drown buildings on our coastlines under water and create massive droughts inland. If we don't create viable transportation options that will end our dependence on oil, America is going to be in big trouble.

With all this in mind, yesterday the Senate passed a bill to boost funding for Amtrak. We passed that bill so the great American relationship with the railroad could be restored and brought to new peaks of excellence. Funding for the Amtrak bill will be \$19.2 billion over 6 years. That money would make passenger transportation easier, it would improve rail security, it would make our air cleaner, and it would be a boost to the economy. But like every appropriations bill that has come or is on its way to the President's desk under the Democratic Congress, the administration has argued that we don't have money for good public transportation systems.

While President Bush's mouth is moving, his hand is signing checks for other items. What the Amtrak bill would spend in 6 years, the President spends in Iraq in 2 months while we are trying to have a national rail transportation system that gets sales forces from small and mid-size companies to work with intercity travel to sell their products or services, to get people to great institutions of research and also great institutions of healing and hospitals, to get people maybe to the Nation's Capital or to other major cities along the Northeast corridor, to have the opportunity after a post-September 11 world to understand that multiple modes of transportation are critical—if we have a terrorist incident in one part of the country, we can move people along, as on that fateful day. What was open for intercity travel when every airplane was grounded? It was Amtrak. Yet the President says: Oh, no, I am going to veto that bill.

What we are going to spend in 6 years to make Amtrak a world-class rail system, the President spends in Iraq in under 2 months. That is what the war costs: vastly improved American railroads versus 2 months of bloody chaos in Iraq.

The costs of this war, in my mind, are unimaginable. The Congressional Budget Office put out a report projecting that the Iraq war will cost, at the rate we are going, \$1.9 trillion, nearly \$2 trillion. It is incredibly hard to put that money into perspective, but so we can get an idea of how vast that sum is, paving the entire Interstate Highway System over the course of 3½ decades only costs \$425 billion. Some estimates say the Interstate Highway System returns \$6 for every \$1 we spend in economic opportunity and growth. The Iraq war has returned zero dollars for every billion dollars spent.

So we can get an idea of how vast that sum is with the money spent in Iraq, we could pave a four-lane American highway from Chicago to Milwaukee with an entire inch of solid gold. We could pave a four-lane American highway from Chicago to Milwaukee with an entire inch of solid gold. And if you made the thickness less than an inch of solid gold, you could easily gild a highway from sea to shining sea. That is what the war costs. It costs so much, the amount of money starts to exceed what it would cost to pay even for our most ludicrous dreams.

We have to use our imaginations as to where that money could go because for a lot of it, we don't know where it is going. Billions of dollars have gone missing in Iraq. According to a report released by the special inspector general for Iraq earlier this week, the rest has largely failed to build Iraq's infrastructure. Meanwhile, infrastructure in America still needs serious help. We don't have money accounted for in Iraq that we are sending to rebuild the Iraq infrastructure. The rest that we do account for, the inspector general says it

is largely failing to rebuild Iraq's infrastructure, and we don't have the resources to meet our challenges at home.

It is time for us to make a choice: Will we put this country on a track to recovery or watch it barrel down the rails to deterioration? Will we pave the highway to success for our people or leave that road to rust and rot? Will we watch our economy take off, the aspirations and dreams of our people soar to new heights, or will we ground our Nation, leaving thousands to face the congestion that gridlocks so many forms of transportation in so many places, leaving thousands waiting in the terminals of frustration, waiting for something to change, for something finally to change?

Thinking about our transportation needs is another way to think about what we want the United States of America to look like as a nation. As someone who travels quite a bit across the landscape of the country, I have experienced all these frustrations with all of these different modes of transportation. And transportation is about more than getting from one place to another. It is about economic opportunity and commerce. It is about getting products to market. It is about getting people to service. It is about getting people to important institutions so they can be healed. It is about creating economic opportunity. It is about uniting families from coast to coast. It is about the quality of air and the environment we collectively enjoy by getting more people out of cars. It is about, by the same token, the opportunity to have multiple modes of security. It has so many dimensions to it, but all those dimensions go unresponded to because we are spending hundreds of billions of dollars on the war in Iraq.

Those needs are yet another reason it is time to end this war because when it comes to the failed war in Iraq, American families are being taken for a ride.

It is time to soar again, it is time to reinforce with the strongest iron and steel the bridges to safety and success, time to clear off the barricades of the road to opportunity, time to put America on the highest speed track we can, and to make sure we are always first in flight high above the clouds. Those goals are not imaginary or unattainable. They are very much within our reach. But for that, we have to change the course in Iraq and invest in America at home.

I will continue to come to the floor to speak about different dimensions of the cost of this war in Iraq. It is a cost the American people can no longer suffer.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

NOMINATION OF MICHAEL MUKASEY

Mr. SANDERS. Mr. President, I wish to say a few words this afternoon on some of the issues with which the Senate is dealing.

Last week, I believe I was the first Member of the Senate to suggest very strongly that Michael Mukasey should not become the next Attorney General, and I am very pleased that in the last week, more and more of my colleagues are coming to that same conclusion.

The Attorney General of the United States must be a defender of our constitutional rights. Because President Bush thinks he can do whatever he wants whenever he wants in the name of fighting terrorism, we need an Attorney General who can explain to the President what the Constitution of this country is all about. We need an Attorney General who does not believe the President has unlimited power. We need an Attorney General who will tell President Bush he is not above the law. We need an Attorney General who clearly understands the separation of powers inherent in our Constitution.

Regretfully, I have concluded that Michael Mukasey would not be that kind of Attorney General. I am gratified that more and more of my colleagues are coming to that same conclusion.

Let me be very clear. It goes without saying that the U.S. Government must do everything it can to protect the American people from the very dangerous threats of international terrorism, but we can do that in ways that are effective and are consistent with the Constitution of our country and the civil liberties it guarantees. We do not have to give up our basic freedoms in the name of fighting terrorism.

The Bush administration and the lawyers who have enabled it for the past 7 years cannot be bothered, it appears, with such technical legal niceties as the Bill of Rights. This administration thinks it can eavesdrop on telephone conversations without warrants, suspend due process for people classified as "enemy combatants," and thumb its nose when Congress exercises its oversight responsibility. That is why I called on Roberto Gonzales to resign. I had hoped that the confirmation process for a new Attorney General would give the President and the Senate an important opportunity to refocus on the core American principles embodied in our Constitution.

Unfortunately, it appears Judge Mukasey doesn't get it. At his 2-day confirmation hearing before the Senate Judiciary Committee, he suggested that eavesdropping without warrants and using "enhanced" interrogation techniques for terrorism suspects might be constitutional, even if they exceeded what the law technically allowed. Mr. Mukasey said Congress might not have the power to stop the President from conducting some surveillance without warrants. He even, incredibly, claimed to be unfamiliar with the technique known as waterboarding.

"If Judge Mukasey cannot say plainly that the President must obey a valid statute, he ought not to be the Nation's next attorney general," wrote

Jeb Rubinfeld, a professor of constitutional law at Yale Law School, who had appeared before Judge Mukasey as a prosecutor. And he has that right. It has become an American aphorism that ours is a government of laws, not men. We need an Attorney General who understands that so, unfortunately, he can explain it to a President who does not.

CONTROL IN BASRA

Mr. President, I ask unanimous consent to have printed in the RECORD an article that appeared in the Los Angeles Times today.

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

[From the Los Angeles Times, Nov. 1, 2007]

BRITAIN TO HAND OVER CONTROL IN BASRA—BRITISH DEFENSE SECRETARY SAYS IRAQIS ARE READY TO ADDRESS THE SOUTH'S PERSISTENT VIOLENCE

(By Doug Smith and Said Rifai)

Baghdad.—Saying that Iraqi forces are now capable of dealing with the violence that persists in the south, Britain's defense secretary said Wednesday that his government intended to hand over security for the area by mid-December.

Defense Secretary Des Browne acknowledged that sectarian power struggles and gangsterism continue in oil-rich Basra province, but said Iraqi forces were best able to address them now.

Browne, who spoke to reporters in Baghdad a day after reviewing the security situation in Basra, said he saw increasing evidence that Iraqi security forces, particularly the army but increasingly the police as well, were improving in their response to the infighting and violence.

"Unequivocally. I can see progress," Browne said.

British Prime Minister Gordon Brown announced last month that his government, the main U.S. foreign partner in Iraq, would pull out half its remaining troops by June, leaving 2,500 soldiers stationed outside Basra.

Browne said that contingent would be adequate to fulfill its primary responsibility of guarding the lone British base and would be capable of providing support to Iraqi forces.

In meetings with Iraqi officials Wednesday, Browne pledged Britain's continuing assistance in the economic development of the south.

Also Wednesday, Iraq's foreign minister said Baghdad was holding indirect talks with the Kurdistan Workers Party, or PKK, that would soon lead to the release of several Turkish soldiers the group seized in recent border clashes with Turkey. The PKK, fighting for autonomy for Kurds in Turkey, has bases in the far north of Iraq.

Iraqi Foreign Minister Hoshiyar Zebari, an ethnic Kurd, made the comments after conferring with Iranian Foreign Minister Manouchehr Mottaki before this weekend's regional security conference in Istanbul.

In contrast to the tension surrounding a visit to Baghdad by Turkey's foreign minister, Ali Babacan, the atmosphere was cordial at a joint appearance after their talks. Both diplomats said the border disputes between Turkey and the PKK should not be allowed to destabilize the region.

Meanwhile, a car bomb exploded in the Alawi neighborhood near Baghdad's fortified Green Zone, killing one person and injuring four. The bodies of six unidentified victims of violence were found in the capital.

In the north, a policeman was killed and two others injured in an attack on a checkpoint about 12 miles south of the city of Kirkuk, police Brig. Gen. Sarhad Qadir said.

Two Iraqi army soldiers were killed in Tuz Khumatu, 110 miles north of Baghdad, when a bomb went off under their patrol vehicle, Qadir said.

Mr. SANDERS. Mr. President, what that article talks about is the fact that every day our main ally in Iraq, the United Kingdom, is withdrawing more and more of its troops. In the first paragraph of the article in the L.A. Times today, it states:

Saying that Iraqi forces are now capable of dealing with the violence that persists in the south, Britain's Defense Secretary said Wednesday that his government intended to hand over security for the area by mid December.

And later on in the article it says:

British Prime Minister Gordon Brown announced last month that his government, the main U.S. foreign partner in Iraq, would pull out half its remaining troops by June, leaving 2,500 soldiers stationed outside Basra.

In other words, it is the United States of America, more or less alone, that is continuing this war in Iraq. We have some 140,000 soldiers in Iraq. There are tens and tens of thousands of private contractors in Iraq. It seems to me time is long overdue for us to learn from our ally, the United Kingdom, that we have to begin bringing home our troops, as they are, as soon as we possibly can.

Senator MENENDEZ made the case, I thought very impressively, about what this war is costing us in terms of human life, what it is costing us in terms of the tens of thousands of soldiers who are going to return home with traumatic brain injury, with post-traumatic stress disorder, without arms and without legs. This war has cost the Iraqi people almost beyond comprehension. No one knows exactly how many hundreds of thousands of Iraqi men, women, and children are dead, but there are estimates that go way up to close to 1 million. There are 2 million Iraqis who have been forced to flee their own country, and there are 2 million who have been displaced internally who have had to leave their homes because of ethnic cleansing and because of the violence that existed in their neighborhoods.

This war has resulted, tragically, in the standing of the United States of America being diminished all over the world. Some of us remember years back, when a President of the United States would go to Europe, would go abroad, and hundreds of thousands of people, if not millions of people, would be lining streets with American flags, looking up to Americans saying: America, you are the kind of country we want to be. Now, when this President goes abroad, there are thousands and thousands of people who are coming out, but invariably they are demonstrating against the United States.

What poll after poll shows, to our great loss, to our capability in fighting international terrorism, is we have lost the moral high ground; that our standing throughout the world is significantly diminished. And certainly one

of the challenges we face as a Senate is to restore the confidence the entire world used to have in the United States and restore that once again, so when our kids go visit in Europe and somebody says to them: What country do you come from, they do not have to say they come from Canada. They can say proudly they come from the United States of America, a country that, once again, we hope, will be respected throughout the entire world.

I hope very much we will follow the lead of our friends in the United Kingdom, who are now down to 2,500 troops. I suspect in the not-too-distant future those troops will probably be withdrawn. We should be bringing our troops home as soon as we possibly can.

ABOLISHING HUNGER

The last point I wish to make is that fairly soon, as I understand it, the agriculture bill will come to the floor of the Senate. In that bill, I think under Senator HARKIN's leadership, there have been some very positive changes being made. But I think, because of the lack of funding, that bill does not go anywhere near as far as it should in addressing some of the very serious problems we face in our country in terms of nutrition and in terms of hunger.

At the same time this country is spending \$10 billion a month on the war in Iraq, it has the dubious distinction of having, by far, the highest rate of childhood poverty in the industrialized world, with almost one-fifth—almost one out of five—of the kids in this country living in poverty. Compare that with Scandinavia, where it is maybe 3 percent or 4 percent. And the rate of poverty in America is growing.

Last year, as you may recall, the Department of Agriculture, in the midst of this increase in poverty in our country, reported that 12 percent of Americans—35 million people—could not put food on their table at least part of the year. Thirty-five million of our fellow Americans could not put food on the table for at least part of the year. That is not what should be happening in our country.

When the Senate deals with the agriculture bill, I will be offering an amendment which will ask for a commitment from the Senate that says, at a time when the wealthiest people are becoming wealthier, when the poorest are becoming poorer, when hunger in America is increasing, this Senate, this Congress will make a moral commitment to abolish hunger in this country in the next 5 years. That is not asking too much for our country.

We have to fundamentally change the priorities of our Nation. When billionaires want tax breaks, we have money for them. We have money for war. But when children go hungry, I guess there is no money available. So I look forward to working with my colleagues to change the priorities of this Senate so we start paying attention to the vast majority of our people rather than the few and the wealthy who have so much power.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Wyoming.

Mr. ENZI. Mr. President, in a little over 2 hours, we are going to be having two votes on this floor. Under rules of the Senate, technically, the time is reserved for the debate on that, so I thought I ought to come to the floor and assure people that vote isn't going to be on the Attorney General and it is not going to be on the farm bill. It is going to be about health.

I thought somebody probably ought to come and talk a little about health, so I am going to do that. Yesterday, we voted to invoke cloture on the motion to proceed to H.R. 3963, which is the State Children's Health Insurance Program, or what folks on Capitol Hill are calling SCHIP. Now, I spoke on the floor last night about how this so-called new bill isn't new at all. It is about the same old flawed plan, only with new rhetoric.

I had a lot of hope for what was going to happen because both sides were talking. They were looking at some of the proposals I and others had made, and I even thought the House was going to have those included in their bill. When it went to the floor, it turned out to be kind of the same old thing again, with new sound bites and political posturing. That isn't what it is supposed to be about. We are supposed to be making decisions on health for the children of this country and, hopefully, for every American. But we choose to make political points, which holds up the system and doesn't get the job done.

With those new sound bites and political posturing, we are not ensuring that low-income children have the health care they need. We owe it to these children to work with the President to reauthorize this critical program in a way that gets every single low-income child who needs insurance. This body hasn't been able to do that, and we have been working on this bill for many months. I know if it were not for politics, this bill would have been done weeks ago. Actually, it would have been done months ago.

The longer we work on this issue, the more political it becomes, to the point where we don't even debate it any more. We wait for the votes to roll around and we talk about Attorneys General and farm bills and the war and we avoid the issue we ought to be talking about, which is how to come together to take care of children's health.

Now, I worry that some Members in this Chamber have lost sight of the goal, and that goal was making sure all low-income children in this country have health care. The press has been reporting, and some Members of this body have claimed, all concerns were addressed in the last version of the bill that the House voted on last week—the one that is before us now—but that is

not correct. The concerns weren't addressed. We have to put low-income kids first, and this bill doesn't do that.

Now, I detailed in my speech last night the concerns I have with this bill. I also mentioned I am a cosponsor of the Kids First Act, S. 2152, the bill that would provide Federal funding for children in need and require that the money actually be spent on children from families with lower incomes. This bill is a good step in the direction of compromise, and I hope the majority will see that and start working with the minority to pass something the President can sign, rather than continuing to play politics.

I would suggest the politics haven't worked. I noticed when it went to the floor on the House side there were more people opposed to this version than there were to the previous version. I noticed on the cloture vote there were more people opposed to this version than there were to the last version. That doesn't sound like progress to me; that sounds like more of the same, where it allows people to run political ads one way or the other against people. That is not what we are supposed to be about.

SCHIP is important, and I wish to be crystal clear about my position: I support the SCHIP program 1,000 percent; that is, the SCHIP program we can have, not the one that one side or the other is trying to force down the throat saying we are doing it for kids. But more than that, it is important this body be thinking bigger. We need to think bigger about fixing the entire health care system and helping all Americans.

I do have a bill that does just that. It is not my bill; it is our bill. I spent months collecting ideas from both sides of the aisle. I have looked at every health care provision that anybody has to see if there is not some common ground—and there is. There is. I don't have everything in this because I found that legislation works best if it is evolutionary, not revolutionary. You have to take steps to get from here to there. But if you take steps and you get started with a step, you can actually wind up at your destination. So I put together a bill on behalf of everybody which can do just that—one part of it or all of it; it doesn't matter. For the next few minutes, I would like to explain my plan to this body.

When our constituents look off to the distance, they do see dark clouds and an explosion of health care costs, and they see it rapidly drifting across the country. I know this from the town meetings I have been having. I mention that again. Every day many of our constituents are going to jobs they do not like, but they are afraid that if they change, the change in employment will mean their loved ones will lose their health insurance and they will face a future without the protection a good policy affords. They cannot change from one job to another because a fam-

ily member would have preexisting conditions that would not be covered at the next one. That is not fair.

How do I know these things are happening? I know because I go home almost every weekend. I travel around Wyoming. It is a very big State. I hope all of you will take a look at that. It has a very small population. But I get to talk to almost all of my constituents. I do that partly at town meetings and partly at individual meetings. I also read their letters. I listen to them at all kinds of events when I am back home. I know they are telling me these things. I can also tell that they are telling me the same things. Why aren't we listening? Why are we taking so much time to finally do something about it?

When we are home, one thing we all like to do is visit our local video store. They have a lot of movies we can listen to and watch in the quiet and comfort of our own home. There are different sections for each category, and we can help ourselves to the latest in action or drama or comedy. If health care were a new release and you wanted to check it out at your local video store, you certainly wouldn't find it under "action" because there hasn't been any. You wouldn't find it under "comedy" either, because there is more tragedy than there is comedy in this whole thing. Most likely you would find it under "horror," "science fiction," or "fantasy." Unfortunately, I am not talking about movies and the land of make-believe; I am talking about real life and the need for real action to solve real problems.

Take the fact that health care is one of the biggest concerns of every American. Combine that with the fact that those who were elected and are now in charge have refused to put forth for debate a substantial proposal that has a real shot at working. There is already talk among top Democrats that next year will be the health care year. It is funny how it always seems to be that when Congress is faced with a heavy lift, it starts talking about next year—as if that is the present tense.

What do you have? You have the answer to why Congress's approval ratings are so low. The solution is clear: The best way to solve sagging poll numbers is to actually do something, stop playing around on the fringe of the issue and get right to the heart of the matter. Our friends on the other side of the aisle know what they should do, but what are they waiting for? We need to do what the American people say they want us most to do. And then—this is the real rub—they want us to work together and avoid the partisan fear that we might have to share the credit. I have always believed you can get anything done if you don't care who gets the credit, and that is the path we ought to be taking. We have a real opportunity to do something now, to get legislation passed that will mean real solutions for our constituents.

I have collected this plan. Over the next few months, I will share each step

with my colleagues, as I have been doing, and would remind you that the longest journey in the world begins with a single step, and I am willing to take the first ones. If anyone has a better idea, I am more than willing to put our ideas together until we have something we can all accept.

I know from other pieces of legislation that I have worked on that is the only way to get something done. We can agree on a lot. We can agree on about 80 percent of all of the issues. Health care is one of the issues on which we can agree. I found on any particular issue you can usually agree on 80 percent of it. Eighty percent would be a lot more than what we have now. It is that pesky 20 percent that always proves to be a problem. Sometimes you get things done by what you leave out.

When I mention 10 steps that would get us to this goal—if we only do 8 of them, it is still a lot of health care for people. If we do all 10 of them, it is a solution. If we concentrate on that 80 percent, we can get something done right away to make our health care system better, safer, more efficient, and less expensive. We owe it to our mothers, fathers, sisters, children everywhere to take those steps. One by one, we can get where we need to be.

I think we have all had enough of the "rush and whine" bottle of legislating, the ones who rush out from a meeting to hold a press conference so they can whine about a problem. That approach generates a lot of noise, but it has never resulted in action.

We need to work together, the majority and the minority, to build a legacy our children and our grandchildren will benefit from, a fair and effective health care system that will ensure more Americans have access to the health care they need to lead full and productive lives and that those who have it will not lose it.

Forget there is an election coming up for just a few seconds. That, technically, is next November, not this November. That should give us a little bit of time to work on something. But I do know that election for some of us is a barrier to progress. Let's not let it be that way. There is plenty of room for agreement. We do not need a massive bill, just a genuine effort to work together. We do not need a new big Government bureaucracy. We do not need to bankrupt the country. It is not rocket science. We can do it a single step at a time, and I am discouraged that those in charge have not put a single step into play. But I am hopeful that this call to arms—actually, it is a call to work together as comrades in arms—will remind us all that we need to do something about this issue now. Election year politicking should not stand in the way of real reform for health care. There is much we can do today that will give people the confidence they need in their ability to face the challenges of tomorrow. What we can do right now can help people improve their health coverage for themselves and their families.

All I ask is that you walk with me as we take the steps that are needed to solve this problem. I call it a 10-step approach, and it would bring clarity to our health insurance maze and put the focus where it belongs—on patients. Enacting one of the 10 steps would keep our health insurance system strong and off life support for awhile.

The first step gives small businesses greater purchasing power to reduce the costs of insurance plans. Those of you who know me will recognize how central this would have to be to any health care reform proposal of mine. The Chair and I have worked together to bring together an idea that had failed for 12 years because people would not compromise. We worked with all of the stakeholders—which are the providers and the patients and the insurance companies and the insurance commissioners and anybody else with an interest in insurance—and we put together a plan that would effectively allow small businesses to work across State lines to combine to get a big enough pool that they could effectively negotiate with the insurance companies. That still needs to be done. It is still a key to getting more people insured and seeing that people who have insurance get to keep their insurance. In administrative costs alone, it could drive the price down by 23 percent. That is a huge savings for small businesses. It would bring many small businesses back into the market. We need to do that.

A second step focuses our investment on health information technology to cut costs and to save lives. Mr. President, 100,000 Americans die every year because of medical errors that result from messy handwriting and mixups with drugs and treatment. The Senate needs real leadership to bring the health industry into the 21st century. Electronic access to health records could save billions of dollars and save thousands of lives.

People's health records should travel with them so they can share them with their doctors. Informed decisions are better decisions, and patient access to their records can help their doctors do a better job of making sure the patients get the care they need without duplicate testing. How many people have been to the doctor's office and when you get there, what they do is hand you a clipboard and they say: Write down everything you can remember about your health. I used to be able to remember a lot more about my health than I can because I had more of it. But it would really be helpful just to have a little card I can hand them and say: Here, swipe that through your computer, and I will put in a code that will release some of the information. And when I get a test done at a hospital and then go to the doctor, the doctor won't say: It hasn't gotten here yet, so we are going to have to run the test again. Some of those test are \$5,000, \$10,000—duplicative. But it will be on the little card, you have it right

there, you have the information, and you can use it. The Rand Corporation estimates those duplicative tests are costing us \$140 billion a year. That is real money, in my book. So an electronic record would go a long way toward eliminating the problems caused by a prescription that can't be read or a drug interaction that could be dangerous or duplicative tests.

The next step would be to correct a flawed Tax Code to make it easier for working Americans to buy health insurance. Jobs don't need health insurance; people need health insurance. Members of American families who are not insured through their employers should have the same access to care. They should have the same access to the Tax Code. We want health care fairness, even if you don't work for a big company. We could do that.

Other steps will fix the medical justice system to cut down on the junk lawsuits that are driving up health care costs. The medical liability system in this country does not work the way it should. The 10 steps would include a mechanism to promote real medical justice reform that will focus on helping both patients and doctors, not trial lawyers. We want medical justice so the people who are injured get paid quickly and fairly, so we are not spending more in preventing lawsuits than we are in preventing illnesses.

I have to say, Senator BAUCUS has been working with me on that bill. We have introduced a bill that can do exactly that. It will be bipartisan. It can be more bipartisan. We need more people to help out.

Americans should not have to live in fear that if they change jobs they will lose health insurance. This 10-step bill will give them security in their health insurance. When you change jobs, you will be able to take your health care with you. You will not have to worry about the insurance company saying: That already existed before you bought our insurance, so that is going to be a surprise discovery, that it was a previous ailment, and we are not going to cover it.

We don't want that to happen. The system we have today is not about patients and making them healthy. We need to put the focus back on health care, not sick care.

We also need to set our sights on prevention. Ben Franklin said it best:

An ounce of prevention is worth a pound of cure.

Those are a few of the things we can do now. I hope you will check out my Web site, where I have a lot more detail on this plan that I have collected from everybody, everybody who is interested in it. Check out that Web site and join me in getting something done in health care for every American. It is not a big concept, but it can be a big improvement.

I encourage others to bring their ideas out for discussion. I never consider anything I have collected or worked on to be the final answer. The

way I get legislation done around here is to listen to all of the different proposals, see what works together, and out of that usually springs some surprise inventions, new ways of doing it that reach the goal we are looking at. That is where we are trying to go.

Our constituents are not asking for more politicking. They consider health to be a real problem.

They want a real answer, so we can bring the focus back to health care and not "sick" care. We all know what we should be doing in our own lives to help prevent chronic illness so we can stay strong and healthy. When it comes to health care, it is clear there is a lot that should be happening but is not. We need to replace those "shoulds" with a simple word "will." We need to replace the call to do something from "next year" to "now."

Those changes should happen, and we can make them happen. It is a simple thing. We just need the will to do it. We need to take the politics out of it. I know this is a political body, but we have done much in the past that was not based on politics. It was based on solutions for America. And that is the only way the people of this country are going to have confidence in Congress again.

We can do it. We can do it one step at a time but only if we work together. We have done it. We did it on the mine safety bill a little over a year ago. It used to take about 6 years to get a bill through. We did it in 6 weeks because people listened, found out what the problem was, and put down solutions.

No, it did not solve every problem, but at least it is 80 percent better than it was. Eighty percent is better than nothing. We can reach solutions but only if we listen to each other, find the 80 percent, and be willing to throw out the other 20 percent.

I thought we were at that point on SCHIP. I was disappointed that we went pretty much back to the same old story again because it evidently makes good ads because, as I mentioned before, the number in the House who voted for it was fewer, and the number of people in the Senate who voted for it was fewer. So we are not there. I hope we do something that gets us there, not just for the children but for everybody.

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. HUTCHISON. Madam President, I rise to speak in support of the SCHIP bill, but also to say we should not be voting on this legislation right now. This is a time and an issue on which our bipartisan Congress, with a bipartisan consensus, can sit down with the

President and his staff and come to a conclusion that will continue a program that has been very effective. However, that is not what we are faced with today. Today we are faced with voting on the exact same bill—not the exact same bill, almost the exact same bill—that we voted on and the President vetoed only 2 weeks ago.

Now, I voted for the first bill. I think it was a good bill. It had many good features. But I expected, when the President's veto was sustained in the House, the House leadership would take a step back, meet with the President's staff, work something out, and go forward with something new—a new try.

That is not what we have in this bill before us. That is why I voted against the motion to proceed. I believe we needed more time to craft a bill that would be more acceptable to the President and could have the bipartisan consensus to pass and go to the President for signature. That is not what happened.

Instead, the House turned around and very shortly passed almost the same bill. Eighteen Republicans voted for virtually this bill. We also signed a letter saying to our Senate and House leadership: Please work with the President to come up with a compromise.

The President has said he would like a compromise. He has said he would like to move forward. I think there is a very strong middle ground because the bill that is before us is a vast step beyond the program as it has been in place, and I think we could still do a lot more coverage. We could cover more children; we could cover more families with a bill that is not quite as far reaching as the one that is before us today. Even though I support the one that is before us today—and I will continue to do so—I do want a good-faith effort to come to a compromise that everyone can support.

The bill does continue the program we have started. It provides, today, insurance for over 300,000 children in Texas. It also includes an important provision that protects Texas's ability to cover more children with health insurance. During the SCHIP debate, I worked with members of the Senate Finance Committee to ensure the legislative changes did not harm Texas's ability to fund the program, and we were successful. That language was in the original bill, and it is in the bill that is before us today.

However, I do think it is important we move forward in a way that will achieve success. I want to make sure a fast-growing State such as Texas does not lose the money it does not use in any 1 year in the next year and the following year. That was my concern because many of the fast-growing States do not use their money this year, but they will need it next year or the year after because there is a stronger effort to sign up the children who are eligible. That was accomplished in this bill. That is one of the key reasons I sup-

port it because I do think it is an efficient use of our taxpayer dollars to cover children so they are not going to be more seriously ill because they have not had the preventive medicine that coverage in Medicaid or SCHIP—which is the next step above Medicaid—can provide. That is a worthy goal for our Congress.

I am going to vote for the bill today. But I do hope this signal is heard; that is, we would ask the leadership in the House and the leadership in the Senate to sit down with the President's staff to work out an agreement where we can all support this bill that will continue the very important mission of SCHIP to give a safety net to children who are above the Medicaid level but still 200 percent or 300 percent at most above poverty and give them an opportunity.

I think some of what has been talked about as compromise is quite good, quite sound, quite creative, such as you go to 250 percent above the poverty level, but between 250 percent and 350 percent you give tax credits for families to cover themselves with private insurance. You help them. You subsidize their ability to stay in the private market.

We do not want a big government program. We do want to cover SCHIP and Medicaid through government auspices, but we want to not supplant the private insurance that many people in the 250 percent to 350 percent above poverty level already have access to. But if those people who do have access to health care because they work in a company that provides this opportunity choose not to take it because they are going to get a free government program, that does not do anyone any good. It is not going to increase the number of children who are covered by insurance because they would have given up health insurance in order to go on a government program. That is not what we are after. We are after increasing the number of children covered. We are after, also, keeping the basis of our private health insurance healthy in our country.

So, Madam President, I thank you for allowing this debate to go forward. I thought we should have negotiated a little longer, but we are not. So we are now going to have cloture on the bill itself. I will support that cloture, and I will support the bill. But I do not want the same bill to come back a third time. I expect sincerity on the part of Congress and the President to come forward with something new that would be closer to a bipartisan agreement where we can all declare success, and the beneficiaries of this success will be the poorer children of our country.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I ask unanimous consent to speak for up to 15 minutes.

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

Mr. CORNYN. I thank the Chair.

Madam President, I was looking at the most recent public opinion polls on the Congress, and let me report what they say. It says just 16 percent of likely voters think Congress is doing an "excellent" job or a "good" job, while 36 percent are willing to call the legislature's performance "fair." A plurality of 47 percent say Congress is doing a "poor" job.

Now, I do not know about you, but if my kids brought home a report card that said only 16 percent of their work was either "excellent" or "good," 36 percent "fair," and 47 percent "poor," I think there would be a little trouble at home until we got their priorities straightened out.

This Congress, this Senate, has lost a sense of its priorities. Our priorities should be working together across the aisle to try to solve our Nation's challenges. That is the reason I came to the Senate. I honestly believe regardless of whether we call ourselves Republicans or Democrats or Independents, that is what motivated virtually every Member of Congress to come here: to try to do something for our constituents, for our States, for our Nation, and for our future.

But, unfortunately—I do not know whether it is the water we drink in Washington, DC, or somehow just the environment we encounter here—once people come to Washington they seem to get locked into these partisan battles and lose sight of that objective, which is to do something good for the American people, to help them solve some of their problems, to deliver results. I know many of our colleagues—whether they are Republicans or Democrats—are frustrated by our inability to do that.

As the Presiding Officer knows, we have weekly meetings, bipartisan meetings, trying to figure out—it is almost like group therapy sessions: How can we get out of the rut we are in? How can we solve some of the problems that confront us? But here we are again. My colleague, the senior Senator from Texas, talked about her concerns that the SCHIP debate—the State Children's Health Insurance Program debate—had become not a problem to be solved but, rather, a political football.

I am afraid I have to agree with her that we have been through this debate over the last few weeks, and nothing—not even the rhetoric—has changed. It seems as if all we have had is people dusting off their old speeches they delivered a few days or a few weeks ago, and not listening to one another, not actually rolling up their sleeves and getting to work to try to resolve the differences.

The truth is, as we have said over and over again, what is wrong with this bill is we simply do not seem to have a consensus that we ought to enact a solution. The fact is, we know there is bipartisan agreement the State Children's Health Insurance Program—designed to help low-income kids whose

families make too much money to qualify for Medicaid but not enough to buy private health insurance—that they need a little help in order to get access to good quality health care. There is broad bipartisan, perhaps unanimous, agreement we ought to get that done.

But, unfortunately, what we have seen is a program proposed that little resembles the original program, which was designed to help low-income kids. We see a bill that has grown by 140 percent, a \$35 billion tax increase in order to cover who? Low-income kids? Well, no. In 14 States we know it is used to cover adults. We know proposals had initially been made that would have allowed waivers to be used to cover families making up to \$80,000 and more—bearing little resemblance to its original goal.

Now we see a new bill that is before the Senate that represents the old bill except—if this is possible—it is even worse. It is amazing to me the authors of this new bill would come back with this so-called compromise, spending \$500 million more than the last bill, yet covering 400,000 fewer children. You heard me correctly—spending almost a half billion dollars more and covering 400,000 less children. And, still, despite my pleas and the pleas of many of our colleagues to the contrary, this bill does not put the health and welfare of the lowest income children first.

I have said it time and time again, but let me say it one more time: Right now, in my home State of Texas, there are roughly 700,000 uninsured low-income children who qualify for Medicaid, who qualify for the SCHIP program, but we have not made the effort to reach out to them to get them to sign up for a benefit for which they are already legally qualified and for which there are funds already available to pay for their health care.

These 700,000 children in Texas who qualify for SCHIP or the Medicaid Program do not know about the programs or do not know how to apply. I have to tell you, I was recently in Houston, TX, at a place called the Ripley House, which is a neighborhood program run by the Texas Children's Hospital, where I saw a copy of the application form for Medicaid and SCHIP. It reminded me of a financial statement that a business man or woman would have to fill out in order to apply for a line of credit or even maybe a financial application you would have to fill out to buy a home. It was enormously complicated and, I am sure, intimidating to many low-income parents who would like to sign up their children.

But we have to refocus our efforts not on growing the size of the program beyond recognition to cover the middle class and to cover adults; we need to return our focus to low-income kids and figure out how we can get those families who are the intended beneficiaries of this program signed up on the program so we can get more kids out of the emergency rooms and on to

some form of health insurance which will allow them to get preventive care and to keep them healthy and productive as young Americans. But here we go again. Here we go again. We are going to have another meaningless vote in the sense that while it no doubt will pass, the President said he is going to veto it, and we will be right back in the soup again. The second veto, roughly the same bill, except for the fact that this bill spends more money, covers fewer kids, and we are not solving the problems the American people sent us here to solve.

I think it is regrettable. It is not why I came here, and I doubt it is the reason why the vast majority of our colleagues come here. But here we are stuck in a rut again, playing the same sort of political games, more concerned about scoring points on some imaginary scoreboard, according to arbitrary rules that nobody knows, other than it seems like these poor, low-income kids are the ones who are losing in the end.

MUKASEY NOMINATION

I also come to the floor to talk about another disappointment I have with regard to the confirmation proceedings of the new nominee for Attorney General of the United States, Judge Michael Mukasey. I serve as a member of the Senate Judiciary Committee, and I am grateful to Chairman LEAHY that on Tuesday we will finally have this nomination on the Judiciary Committee markup so we can vote up or down in the Judiciary Committee on this nominee. But it seems that Judge Mukasey—just when we thought, here is somebody who is a respected Federal district judge and who has served with great distinction in that capacity, who has been the presiding judge of both the Jose Padilla case—do my colleagues remember that? He was an individual accused of terrorism and where there were many extensive legal challenges to his detention. Judge Mukasey handled that case, at least in part. He also tried and presided over the 10 individuals who were convicted for their involvement in the 1993 bombing of the World Trade Center, one of the first incidents of terrorism on our soil back in 1993, before we realized al-Qaida had declared war against the United States and we finally woke up on September 11 and acknowledged that.

But throughout his career as a judge, Judge Mukasey has proven to be an independent voice of reason, justice, and a strong advocate for the U.S. Constitution and the rule of law. For 18 years, he served on the U.S. District Court for the Southern District of New York, one of this country's most important and prestigious Federal courts. For 6 of those years, he served also as the chief judge.

The U.S. Court of Appeals, Second Circuit, wrote of Judge Mukasey's work presiding over the 1993 World Trade Center bombing, saying that he:

Presided with extraordinary skill and patience, assuring fairness to the prosecution

and to each defendant and helpfulness to the jury. His was an outstanding achievement in the face of challenges far beyond those normally endured by a trial judge.

In short, Judge Mukasey's qualifications as a lawyer, as a judge, as a dedicated advocate for the rule of law are unimpeachable and undeniable.

Well, it looked like things were going pretty well. There were 2 days of hearings for Judge Mukasey in the Senate Judiciary Committee. Judge Mukasey was doing well when he said: You know what. I am not afraid to tell the President of the United States when he steps over the line and violates the law. If that were to happen, he said, it is my job as Attorney General to tell him: Here are the parameters for your actions, Mr. President, and you, just like the lowest of the low, the highest of the high, are subject to the law of the United States under the Constitution. Believing as he does in the concept of equal justice under the law, Judge Mukasey showed no fear and no favor in terms of the way he would interpret and apply the law were he confirmed as Attorney General.

But now we see some of my colleagues on the Judiciary Committee have sent Judge Mukasey a letter asking him about his legal conclusion and opinion about an interrogation technique that is allegedly used against some of the worst enemies of the United States—terrorists—in order to get information from them—consistent with our laws and the Constitution and our treaty obligations—that will allow us to save American lives and prevent future terrorist attacks. They complain about Judge Mukasey's answer, not because he doesn't acknowledge what the law is—our international treaties banning torture, our domestic laws that ban torture—but because, he says: I have not been briefed on this particular interrogation technique that you are asking me about, and because it is a classified procedure, I don't know the facts. So let me tell you what the law is. Let me reassure you I will steadfastly enforce the law. I don't care whether it is the President of the United States I have to tell no or anybody else. But you know what. Being a responsible lawyer, being a responsible former Federal district judge, let me say that while I can tell you what the law is, I can't give you a conclusion that you are asking for as to whether this particular technique is legal or not because I haven't been briefed on it. I don't know what the facts are.

Now, that is a responsible answer. As a matter of fact, that is the only responsible answer for a careful lawyer, a judge such as Judge Mukasey. Frankly, if he had answered the question without knowing what the facts were in some conclusive way, I would doubt his qualifications and his temperament. I would wonder: Maybe this person wants to be Attorney General too badly, that he is willing to make rash decisions without knowing what the facts are in order to get confirmed. But

instead, Judge Mukasey said: You know, I need to know what the facts are. I can't answer your question conclusively, even though I reassure you I will steadfastly enforce the law. I oppose torture as abhorrent to our values, personally repugnant to me. I would tell the President of the United States, if I concluded that some particular interrogation technique stepped across that legal threshold.

Once again, we find the facts apparently don't matter, that this responsible answer which Judge Mukasey has given has been offered as a pretext to oppose his nomination. I think it is a shame.

As the New York Times today reported, if Judge Mukasey, who I am confident will ultimately be confirmed as the next Attorney General of the United States, were to say—Madam President, I ask unanimous consent for an additional 2 minutes.

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

Mr. CORNYN. Madam President, if, as the New York Times reported today, Judge Mukasey were to state a conclusive opinion on the legality of certain interrogation techniques which he has not been briefed upon, it would potentially prejudice and put in jeopardy intelligence officials who may have engaged in interrogation techniques that now, without knowing the facts, this nominee would conclude had stepped across a legal threshold. That would not be the responsible thing to do. Indeed, Judge Mukasey has done the only responsible thing a careful person and a person who understands the ramifications of his decision may extend far beyond a confirmation hearing and potentially put in jeopardy America's patriots who are trying to protect and save the lives of other Americans and other people around the world.

So I hope we would try to do better. I hope we would do what we all came here to do as Senators representing our States and try to solve real problems, not to create artificial barriers and pretexts for making what turn out to be naked political judgments about some of these important issues that confront us.

I thank the Chair for her indulgence, I thank my colleagues for their patience, and I hope we get on with the business of passing a children's health insurance bill and have a speedy confirmation for Judge Mukasey as the next Attorney General of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

2007 FIRE SEASON

Mr. CRAIG. Madam President, while I know that on the floor of the Senate this afternoon SCHIP, or the State Children's Health Insurance Program,

is the topic of the moment, something else is near conclusion across America at this time that I thought it would be appropriate for me to speak to. I am speaking of the 2007 fire season. Of course, we—you and I—have been riveted to our television sets over the last several weeks as we literally watched the Los Angeles basin burn. Well, while the smoke is starting to clear in California and the losses are being assessed, I thought it would be time to come and speak to one of the worst fire seasons America has experienced in decades. First, in doing so, I must say—and we have all watched it—thank you to the literally thousands of courageous firefighters, men and women out on the line every day, facing almost impossible odds. We saw it in California. We saw it in my State of Idaho. We saw it across America this year, during that wildfire season period, where flames were as high as buildings, and men and women were scurrying to stop them and to protect both habitat and watershed and homes. They were putting themselves at risk. So I say to all of those marvelous firefighters who stood in harm's way throughout the early summer, summer and fall, and now into the late fall in California, thank you. Thank you for the phenomenal work you do, the selflessness you put yourselves into, on behalf of America, on behalf of people's property, on behalf of our natural resources.

In California as we speak, 14 people lost their lives, 2,100 homes were destroyed as that week-long blaze roared across the greater Los Angeles basin. Over 809 square miles of land was charred, and now, about the time the fires are to die down, we hear rumors that the Santa Ana winds are expected to pick up again and we could possibly find ourselves back in flames in California.

The 2007 fire season: 77,000 fires. Stop and think about that; 77,000 fires, 9.2 million acres of land, and as I have said California may continue to burn.

In my home State of Idaho, we went through one of the worst fire seasons we have ever experienced. Of that 77,000 fires I talked about, 1,775 of them were in the State of Idaho. Of the 9.2 million acres of land charred that I talked about, over 2.2 million acres of that, nearly 25 percent of the whole burn, occurred in my State of Idaho.

Thankfully, in Idaho, no great structures were lost because it happened to be out in the back country or on our foothill grazing land. Finally, as the snow began to fall in the high country of my great State a few weeks ago, the fires were put out because some of those fires were simply impossible to corral and to put out by man's efforts.

So here is an interesting statistic. This chart shows us the phenomenal escalation and the cost of firefighting at the Federal level and what has transpired. In 2005, nearly \$1.6 billion was spent. Let me show you what happened this year. Here is what happened this

year. So we go from \$1.6 billion, and let's go to \$1.87 billion. Those are the figures we are talking about now, and that doesn't even include California. So we will probably hit well over the \$2 billion price tag in fighting America's fires this year, and that, in itself, is phenomenal, a phenomenal cost.

So let's remember it: 77 million, 1,000 fires, 9.2 million acres burned, and now we are bumping up over \$2 billion worth of tax dollars spent in protecting America's marvelous wildlands and in protecting properties and all of that.

Let me give an example of what happened in Idaho, where 25 percent of that acreage burned. On one fire alone, in size as big as the Los Angeles fires—we called it the Murphy Complex fires. Well, there were 50,000 AUMs—or animal unit months—of grazing, because the public lands in Idaho are very valuable for grazing. Six ranchers were 100 percent burned out. Seventeen others were partially burned. Now that the fire is over, now that the fall has come and we have had a few rainstorms and things have settled down, this is Federal land, what do we do?

Here is what we are doing, because the cost is not over. The figure I have given you of nearly \$2 billion, that is to put out the fires. Now, what are you going to do with the land? You start rehabilitating the land. You start trying to stop it from eroding and doing all of that. We are going to spend \$10 million in 2007, and \$22 million is already requested for the next 3 years. That is for one fire in Idaho, estimated at 128,000 acres to be rehabbed, and currently 66,000 have been rehabbed. I flew over that fire. It is very hard to understand what 600 square miles of fire looks like. I was in a military helicopter. I flew for 35 minutes and never saw unburned land. That is the expanse of the size of the fires, and that fire was a little smaller than the collective size of the Los Angeles, or the greater California fires.

So it is phenomenally important that we put these fires into context and understand what they are all about. Some of you watched on national television as the great ski resort, Sun Valley, near Ketchum, ID, nearly burned this year. We spent well over \$150 million saving the community of Ketchum and saving the great Sun Valley Ski Resort from the Castle Rock fire. I was up there two different days on that fire. As the community came around and helped and tried to protect themselves and as our Government poured in resources in a class one fire, there was a great lady up there who was the fire boss. They brought her out of California. She was fearless in her effort to stop that fire, and she did so very successfully.

There are a lot of other stories to be told. The Salmon River, the great "river of no return" in Idaho, one of the No. 1 whitewater rafting rivers in the world, shut down 27 days this summer because of the smoke and risk of fire. Millions of dollars from recreation

were lost in my State from fire or the risk of fire. Oh, yes, there were millions lost in resources, but when you live off the economy of tourism and recreation, fire becomes a very real problem. I don't think we have drawn a bottom line yet to determine the losses in Idaho. But I will tell you they literally are in the millions of dollars. Sun Valley itself had to cancel a great event it has every Labor Day called Wagon Days; they had to cancel altogether, telling people not to come, and tens of thousands of people did not come and spend their money. That community lost millions as a result.

When you see a fire being fought and you know there are millions of dollars being spent to put it out, that is one phase of the great cost of fires in America. As you know, in California, with 2,100 homes burned, many of those homes will be rebuilt, the communities will be rebuilt, to the tune of well over a billion dollars. Someone is going to pay for that—State money, insurance money, private money—a tremendous expense. In many of the areas of the State of Idaho, in that 2.2 million acres that burned, campgrounds will not be able to be used for several years; trail heads will be canceled because it is charred, it is gone; the wildlife habitat, the watershed—all of that, as a result of the great ineffective management of public lands, has been wiped out.

The reason I am telling you all of this is because there is a very important message that has to be brought into context as we look at America burning—and America burns. Last year, it was nearly 10 million acres; this year, it is 9-some-odd million acres. We are burning unprecedented acres in our Nation and somebody ought to ask why. Why is it greater today than it has been in decades?

There are reasons, I believe, and in the next few minutes I will try to explain those to you because not only is our attitude about fire different, our attitude about how we manage our public lands and reduce the overall fuel loads that feed these fires is out there; and the Senator who is chairing at the moment, concluded the drafting and markup of a climate change bill. Our climate has changed. We are, in some areas, getting hotter and in some areas getting drier. But the management of the lands in response to the change of the climate isn't there, or we are not giving the management agencies the resources to change management practices to reflect the kinds of changes that are going on in our public lands.

So, for Idaho, not only was the loss real this summer in millions of acres of beautiful wildlands, but it is now wildlife habitat that is gone; it is watershed that, in the wet season, could come tumbling down and bring sediment to our streams and damage fisheries, and much of the recreation that was there is gone, potentially, for years to come.

As I mentioned a few moments ago, the seeding, the stabilization, all of the

things that have to go on in the urban watersheds to protect them and bring water quality back—all of that is going to be the additional expenses of the Forest Service and BLM and many of our management agencies that have the responsibility over those lands.

The firefighters are gone from Idaho. The smoke is gone and the skies are clear once again. At the same time, the damage is real, and the damage will be there for years to come.

The skies will clear in California one of these days, but in California, the wet season will come. As we watched 2,100 homes burn, now we will watch the land grow wet and begin to slide, because there is no vegetation on it to hold it and protect it and to save it from the kind of slippage to which that region of the country is very prone.

The reason I mentioned Senator LIEBERMAN is because he is on the floor today, leading a charge on climate change. Here is another aspect of what we have done this year, but nobody registers it and few account for it. On average, 6 tons of CO₂ are released for every acre burned in the United States. Up to 100 tons of CO₂ per acre can be released. Now, last year alone—we have not calculated this year yet—10 million acres of forest lands burned. By conservative estimates, that means 60 million tons of CO₂—carbon—was spewed into the atmosphere, not to mention greenhouse gases and air pollutants as a product of our fires.

Can we do something about it? Should we do something about it? We are proposing changing our whole energy structure to try to effect climate change and reduce our greenhouse gases, but few are focused on our public lands and our policies of managing them and what results from that when they burn.

Here is an interesting fact. When I talk about the 60 million tons of CO₂ spewed into the atmosphere, that is roughly equivalent—understand this figure—to taking 12 million vehicles off the roads for 1 year; in other words, turning off their motors, stopping their pollution, 12 million vehicles for 1 year. That is equivalent to about half the automobile fleet in California. That is a pretty significant picture.

One of the things our forests do so very well when they are young and youthful, and when the matrix of our forests old and new are different in their changes, they do something that only a green-growing plant can do: sequester carbon, take it from the atmosphere. When they burn, it releases carbon back into the atmosphere. Our management practices ought to be to keep our forests as young and vibrant and alive as they can be, so they become a tool, an asset, in climate change, to pull the carbon out of the atmosphere that man produces and store it in trees. The great secret that lots of people who don't understand our forests do not understand is they are the greatest captor and storer of carbon in a forest. When they burn and

when you see smoke on the horizon, it is just that—the release of carbon into the atmosphere.

Let me conclude by saying what I think is critically important for our future. Active management of our forests, recognizing not only their contribution to our great Nation, as it relates to all they bring in water quality and wildlife habitat and the producing of fiber to build homes, is what keeps a forest healthy. To simply lock them up and watch them and watch Mother Nature move in with her bugs and kill them and burn them and do what happened this year is, in itself, a statement of mismanagement.

This year, and last year, we saw record examples of mismanagement: 10 million acres last year, 9.2 million acres this year, and billions of dollars of tax money spent and thousands of homes lost. Our public resource agencies spend more time protecting homes nowadays than the resource itself. We sit idly by while the courts are in suit to keep us out of our forests so we cannot manage them to clean them up, to reduce the fuel loads, to adhere to the laws that have been passed, such as Healthy Forests and others.

I will be back to talk more about this in detail in the coming months. We are now off the chart. We are now literally, in spending, off the chart. This is only phase I. This is fighting fires, trying to put out fires. This is trying to protect habitat or to protect homes. This has nothing to do with the rehabilitation and the seeding and management that may come afterwards or all of the dollars that have been lost in California because business would not be conducted, or all of the dollars lost in Idaho and other States because people could not come there to enjoy it and recreate.

There are a lot of other consequences, let alone the phenomenal bleeding in the atmosphere of carbon and greenhouse gases, that come from a wildfire season. America burned this year. The 2007 fire season was one of the worst we have had in decades. This is part of the story of what it was all about. There is more to be told. It must be told, and Congress should act in concert with climate change and everything else to make sure that part of what we do sequesters our carbon, keeps our forests healthy, young, and vibrant as a part of the total picture of a great Nation that manages a great resource instead of simply watching it burn.

Mr. GRASSLEY. Madam President, with the debate coming to a conclusion the way that it has today, I am really starting to wonder if Congress really wants to reauthorize the SCHIP program.

I worked with my colleagues on the other side of the aisle Senators BAUCUS and ROCKEFELLER and my good friend Senator HATCH to come up with a bipartisan compromise.

We passed a bill in the Senate with a remarkable 68 votes. Who would have predicted that when this session began?

We sat down with our House colleagues and hammered out a compromise that very closely followed the Senate bill. That compromise bill again passed the Senate by a wide bipartisan margin and received 265 votes in the House.

As we all know that bill was vetoed, and 2 weeks ago, the veto was sustained in the House.

In the 2 weeks since that vote, I have seen some of the strangest twists and turns I have seen in all my years in politics.

First, I sat down with Democratic leadership in both Houses. We agreed on the compromises we thought we could make to get the final votes we needed to pass the House.

At the same time, the minority leader of the House released a letter with the conditions his Members needed to vote for a bill.

Seeing as the compromises we were willing to make seemed to resemble the conditions in the leader's letter, we began meeting with House Republicans to see if we could bridge the final gap.

We started a process and made some real progress. Then all of the sudden House Democratic leadership decided it was time for a vote. No matter that we hadn't successfully concluded negotiations with House Republicans, it was time to vote.

That bill passed and it is the bill we are voting on here in a few minutes.

Moving ahead like that in the House created tremendous mistrust. But undaunted, we picked up the pieces and tried again to get a deal with House Republicans.

The minority leader in the House released another letter with the conditions his Members needed to support a bill. Of course, the goalposts moved from the original letter. But we still felt a deal was possible and forged ahead.

The majority leader of the Senate started the clock ticking on the bill here in the Senate. Again we were making progress with House Republicans.

So when the majority leader saw we were making progress, he asked for more time here in the Senate.

Incredibly, Senate Republicans objected. In the House, Republicans objected because we moved too fast. In the Senate, Republicans objected because we wanted to move more slowly.

Yes, you should note the incredible irony.

So today faced with continued objections, a decision was made to move forward with a vote this afternoon.

I ask all my colleagues. Why?

To my colleagues on the Democrat side; the President will veto this bill and the House has the votes to stop an override. Why go through with this?

To my colleagues on the Republican side; we have the votes to pass the bill and were quite close to having a deal to satisfy House Republicans. Did you force the vote today to keep us from reaching a deal?

What the heck is going on around here?

My patience is a little thin right now. But come tomorrow, I will go back to working with the folks who want a bill that we can get enacted into law.

This bill actually improves upon the bill that was vetoed by the President. All my colleagues who supported the bill before should certainly support the bill today.

But as we all know, this bill is getting vetoed and there aren't the votes to override in the House.

That is really too bad, because this is a very good bill.

It is really too bad for the more than 3 million children who don't have health care coverage today that would get coverage under this bill.

It is for those kids that I will pick up the pieces tomorrow and try to move forward. It is my hope that leadership on both sides of Congress and both sides of the aisle will set the game-manship aside so we can finally finish this bill.

Mr. AKAKA. Madam President, once again, I support the Children's Health Insurance Program Reauthorization Act.

I am frustrated that the President continues to oppose legislation that will expand access to health care for our Nation's children. The President's veto of the previous bill shows that this administration fails to understand the domestic needs of our country.

The Children's Health Insurance Program is a successful program that has improved the quality of life for our Nation's children. Since its enactment in 1997, the number of uninsured children have been reduced by one-third, according to the Center on Budget and Policy Priorities.

The Children's Health Insurance Program Reauthorization Act will preserve access to health care for the 6.6 million children currently enrolled in the Children's Health Insurance Program. In addition, this bill expands access for approximately 4 million more children.

Approximately 16,000 children in Hawaii lack health insurance. I am proud that my home State of Hawaii has continued to develop innovative programs to help provide access to health care for children. This year, the Hawaii State Legislature established the Keiki Care program, a public-private partnership intended to ensure that every child in Hawaii has access to health care.

This administration is being irresponsible by denying resources to states for children's health care. Without access to insurance, children cannot learn, be active, and grow into healthy adults.

I continue to appreciate the inclusion of a provision to restore Medicaid disproportionate share hospital, DSH, allotments for Hawaii and Tennessee. Medicaid DSH payments are designed to provide additional support to hos-

pitals that treat large numbers of Medicaid and uninsured patients.

I developed this provision as an amendment with my colleagues—Senators ALEXANDER, INOUE, and CORKER, that provide both states with DSH allotments. Hawaii would be provided with a \$10 million Medicaid DSH allotment for fiscal year 2008. For fiscal year 2009 and beyond, Hawaii's allotment would increase with annual inflation updates just like other low DSH States.

Hawaii and Tennessee are the only two States that do not have DSH allotments. The Balanced Budget Act of 1997 created specific DSH allotments for each State based on their actual DSH expenditures for fiscal year 1995. In 1994, Hawaii implemented the QUEST demonstration program that was designed to reduce the number of uninsured and improve access to health care. The prior Medicaid DSH program was incorporated into QUEST. As a result of the demonstration program, Hawaii did not have DSH expenditures in 1995 and was not provided a DSH allotment.

The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 made further changes to the DSH program, which included the establishment of a floor for DSH allotments. However, States without allotments were again left out.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 made additional changes in the DSH program. This included an increase in DSH allotments for low DSH states. Again, States without allotments were left out.

Hawaii and Tennessee should be treated like other extremely low DSH States and be provided with Medicaid DSH allotments every year. Other states that have obtained waivers similar to Hawaii's have retained their DSH allotments.

Hospitals in Hawaii are having a difficult time trying to meet the elevated demands placed on them by the increasing number of uninsured people. DSH payments will help our hospitals continue to provide essential health care services to people in need. All States must have access to resources to ensure that hospitals can continue to provide services for uninsured and low-income residents.

This administration fails to adequately understand the importance of this legislation. This bill helps the State of Hawaii provide essential health care access to children that currently lack health insurance. It will also provide vital support to our hospitals that care for Medicaid beneficiaries and uninsured patients.

Mr. DODD. Madam President, I rise today in strong support of H.R. 3963, the Children's Health Insurance Program Reauthorization Act. This bipartisan agreement is our second attempt to do what is right for our Nation's children. There are few more important issues facing the Senate than the

health and well-being of our Nation's youth. The vote to pass this legislation is a vote for children.

As the father of two young daughters, I clearly understand how important it is to know that if one of them gets sick that they have the health insurance coverage that will provide for their care. For millions of parents, every slight sniffle or aching tooth could mean the difference between paying the rent and paying for medical care. Today we have an opportunity to help give those parents peace of mind about their children's health.

Despite the broad bipartisan support that already exists for this bill, Chairman BAUCUS and Senator GRASSLEY, among others, have worked tirelessly to build more support and accommodate the bill's critics. They should be commended for their work and dedication. Thanks to them and many others, this legislation represents an even more thorough compromise while still covering 10 million children. There are explicit changes designed to address criticisms by the bill's opponents. H.R. 3963 makes it even more clear that States must cover the poorest children before expanding their programs. And it ensures that illegal immigrants cannot get benefits.

But even with these changes the bill continues providing coverage for 6.6 million children currently enrolled in CHIP and provides coverage for 3.1 million children who are currently uninsured today. It gives States the resources they need to keep up with the growing numbers of uninsured children. It provides tools and incentives to cover children who have fallen through the cracks of current programs. And it will prevent the President from unfairly and shortsightedly limiting States' efforts to expand their CHIP programs to cover even more children. All together these efforts will reduce the number of uninsured children by one third over the next 5 years.

I am additionally very pleased that my Support for Injured Servicemembers Act amendment was included in the final SCHIP bill. This amendment provides up to 6 months of Family and Medical Leave Act, FMLA, leave for family members of military personnel who suffer from a combat-related injury or illness. FMLA currently allows 3 months of unpaid leave. Fourteen years ago, FMLA declared the principle that workers should never be forced to choose between the jobs they need and the families they love.

If ordinary Americans deserve those rights, how much more do they apply to those who risk their lives in the service of our country? Soldiers who have been wounded in our service deserve everything America can give to speed their recoveries—but most of all, they deserve the care of their closest loved ones.

The President's Commission on Care for America's Returning Wounded Warriors, ably led by Senator Bob Dole and former Secretary of Health and Human

Services, Donna Shalala, has been instrumental in efforts to provide needed care for our returning heroes. It is not surprising that the Commission found that family members play a critical role in the recovery of our wounded servicemembers. Although the President has lauded the recommendations of the Commission and recently sent legislation to Congress to implement its recommendations, he continues to hold up the passage of this provision.

I am pleased that Senator CLINTON is the lead cosponsor of my amendment. In addition, I am pleased that Senators DOLE, GRAHAM, KENNEDY, CHAMBLISS, REED, MIKULSKI, MURRAY, SALAZAR, LIEBERMAN, MENENDEZ, BROWN, NELSON of Nebraska, CARDIN, and OBAMA are cosponsoring this amendment. I thank Senator BAUCUS and Senator GRASSLEY for accepting this important amendment and appreciate the support of all of my colleagues in this effort.

Unfortunately the President still stands in the way. He continues to threaten to veto this important legislation. I am fearful that he will block yet another bipartisan compromise to cover children who need health care. This legislation is vital to the health and well-being of our children. It represents the hard work and agreement of an overwhelming majority of Members on both sides of the aisle. It is a testament to how important issues like children's health care can be addressed in a bipartisan manner by a united Congress. The President's policy of block and delay would mean Connecticut and other States would have to take away existing health coverage for hundreds of thousands of children when they should be covering more kids.

I urge my colleagues to support this critical legislation, and I urge President Bush to do what is right and sign it into law.

Mr. President, I yield the floor.

Mr. ALLARD. Madam President, I come to the floor today to discuss my amendment to codify the unborn child rule in the pending SCHIP legislation. This needs to be done, and it needs to be done in this reauthorization.

The unborn child rule is a regulation that, since 2002, has allowed States to provide prenatal care to unborn children and their mothers. It recognizes the basic fact that the child in the womb is a child. When a pregnancy is involved, there are at least two patients—mother and baby. It only makes sense to cover the unborn child under a children's health program. The bill before us modifies the SCHIP statute to allow States to cover "pregnant women" of any age. It also contains language that asserts that the bill does not affirm either the legality or illegality of the 2002 "unborn child" rule.

My amendment would codify the principle of the rule by amending the SCHIP law to clarify that a covered child "includes, at the option of a State, an unborn child." The amendment further defines "unborn child"

with a definition drawn verbatim from Public Law 108-212, the Unborn Victims of Violence Act. My amendment would also clarify that the coverage for the unborn child may include services to benefit either the mother or unborn child consistent with the health of both. In addition, the amendment clarifies that States may provide mothers with postpartum services for 60 days after they give birth.

Many States' definition of coverage for a pregnant woman leads to the strange legal fiction that the adult pregnant woman is a "child." Surely it was not the intent of anyone who developed the State Children's Health Insurance Program to allow a loophole for States to define a woman as a child. Surely we can agree that the child who receives health care in the womb is a child receiving care along with his or her mother.

My amendment will also allow for coverage of the mother, whereas the pending legislation only allows for pregnancy-related services. There are many conditions that can affect a mother's health during pregnancy that are not related to her pregnancy. Under the pending legislation, a pregnant mother could not get coverage for any condition that isn't related to her pregnancy.

We should be allowing mothers to stay healthy so that they will have healthy babies. This also leads to reduced costs associated with premature or low-birth weight babies. Eleven States are already using this option to provide such care through the State Children's Health Insurance Program. If the intent of the sponsors is to provide coverage for the pregnant woman and her unborn child, then they should have no problem supporting my amendment.

We should ensure that pregnant women and their unborn child are both treated as patients. This is a matter of common sense. Every obstetrician knows that in treating a pregnant woman, he is treating two patients—the mother and her unborn child. Keeping this coverage in the name of the adult pregnant woman alone is bad for the integrity of a children's health program, bad for the child, and even bad for some of the neediest of pregnant women.

I urge my colleagues to support my amendment.

Mr. LEVIN. Madam President, the Children's Health Insurance Program Reauthorization Act of 2007 would help ensure that millions of the Nation's uninsured children can receive access to health care.

Last month, the House and Senate passed legislation reauthorizing the popular children's health insurance program. In the Senate, this bipartisan bill passed with a veto-proof majority of 67 votes. Since then, the President has vetoed this legislation and Congress has worked hard to create a new bipartisan bill that addresses items President Bush objected to. Despite

this, the President continues to threaten a veto on this strengthened bill that focuses on ensuring children from low-income working families receive access to necessary health care.

I hope that the President will listen to the majority of the Nation that supports the Children's Health Insurance Program Reauthorization Act and signs this bill when it reaches his desk.

Currently, 6.6 million children are enrolled in the Children's Health Insurance Program, or CHIP. There are still 9 million uninsured children nationwide, 6 million of which are eligible for either Medicaid or CHIP. The Children's Health Insurance Program Reauthorization Act would provide more than 3 million uninsured children from low-income families with health insurance. This means, that in my home state of Michigan, 80,900 more uninsured children will receive access to much needed health care.

I believe that we have a moral obligation to provide all Americans access to affordable and high quality health care. I do not understand how the United States is one of the most developed and wealthiest nations in the world, but we continually send the message that an additional \$35 billion to provide American children from low-income families with access to health care is too large an investment for those that represent our future.

I firmly believe no person, young or old, should be denied access to adequate health care, and the expanded and improved Children's Health Insurance Program is an important step toward achieving that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. LIEBERMAN. Madam President, I have been waiting on the floor for a while. May I speak in morning business?

Mr. BAUCUS. Madam President, what is the regular order?

The PRESIDING OFFICER. The majority controls 14 minutes and the Republicans control 20 minutes before the cloture vote.

Mr. BAUCUS. We have 14 minutes remaining and we are going to have to use it, unless the Senator can use 1 or 2 minutes.

Mr. LIEBERMAN. I understand. I will wait and either return after the vote or at another time.

Mr. BAUCUS. It is possible the Republicans might yield the Senator some time.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, I ask unanimous consent that the 20 minutes immediately prior to the cloture vote at 4:45 be equally divided and controlled between the leaders, or their designees, and that the majority leader will control the final 10 minutes prior to the vote; further, that the mandatory quorum required under rule XXII be waived.

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

Mr. BAUCUS. Madam President, in 1997, Congress enacted the Children's Health Insurance Program—10 years ago. From the beginning, it has been about kids. It has been about trying to give the parents of low-income working families the peace of mind that comes from knowing that health care is there for their children. That is all this is, it is about health care for kids. These are kids in working families, not kids in wealthy families, not kids in middle-income families—kids in working families.

These are kids who, through no fault of their own, were born into families having had a hard time buying medical insurance in America, and we are trying to help these kids.

A large number of Senators on both sides of the aisle have worked together to try to reach a consensus. Both sides of the aisle—Senator GRASSLEY, Senator ROCKEFELLER, Senator HATCH, and I—met together and worked things out. And when the House failed to muster enough votes to override the President's veto, we worked together with House Republicans to help kids. All four of us—Senator GRASSLEY, Senator ROCKEFELLER, Senator HATCH, and I—met repeatedly with moderate House Republicans to try to find a middle ground.

We have made progress. We made a lot of progress, and I believe a compromise is very close, is within reach. I believe given a little more time, Congress could pass a CHIP bill that could achieve the support of more than two-thirds of both Houses of Congress. Unfortunately, today some objected to giving us that time, and I regret that objection.

But we met again, all of us—that is, Senator HATCH, Senator ROCKEFELLER, Senator GRASSLEY, and I—with House Republicans at 2 o'clock. We agreed to continue meeting. We will meet again next Tuesday. We will reach an agreement soon. I don't think I will be telling tales out of school to say that the majority leader visited our meeting and he said: If we get a deal, the Senate will take it up. I think we are close to getting that deal. There are only a couple of issues that are outstanding, and we will work through those issues.

I regret that the opponents of the Children's Health Insurance Program—and let us be clear, they are truly fighting not just the bill but the Children's Health Insurance Program—that those opponents of CHIP have made it impossible for us to offer an amendment to the bill before us today to get this done. They have succeeded in stopping us today. I am disappointed. I am not discouraged, I am disappointed. We will keep working. Even if the President once again vetoes health care for kids, we will work to get it done.

We are still left with a good bill before us. It is a better bill than the one the President vetoed. Before us today is a bill that addresses many of the concerns Senators expressed with the first CHIP bill. The bill before us today

focuses more on kids. It focuses more on low-income families. It is a good bill.

There is no reason why anyone who supported the first bill on September 27 would not do so again today. It is improved. There is every reason why those who objected to the first bill would support this bill today.

I urge my colleagues to join in voting for cloture and then voting for the bill. I urge them to do so because this is still about health care for kids. That is what this is all about, it is for kids. We have a lot of peripheral issues, but they are peripheral; it is noise. We say: Keep our eyes on the ball. It is about helping low-income kids, health care for kids and working families. Measures such as this are why we came to work in public service. Measures such as this are why people for whom we work sent us here. Let us not let them down.

Madam President, I yield 3 minutes to my friend from Connecticut.

Mr. LIEBERMAN. Madam President, I say to the Senator from Montana, that is good of him. I may not have to ask for it—I believe the minority will yield me such time as I need, but if I need more time, I will come back. I thank my friend for his graciousness.

Madam President, I rise to speak as in morning business.

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

NOMINATION OF MICHAEL MUKASEY

Mr. LIEBERMAN. Madam President, I rise to speak on the pending nomination of Judge Michael Mukasey to be the Attorney General of the United States. I rise to urge my colleagues on the Judiciary Committee to favorably consider this nomination because I fear we are in danger of treating this judge very unjustly, of doing something that is not fair to him personally.

I wish to state at the outset that I did not just meet Judge Mukasey since he was nominated for Attorney General by the President; I actually met him 43 years ago this fall when we both entered Yale Law School together. We were in the same small group in contracts. The occupant of the chair will appreciate the intimacy and how well you get to know somebody when you are in a small group together with a demanding contracts professor.

The Mike Mukasey I met 43 years ago was honorable, he was bright, he was not presumptuous, he had a great sense of humor, and he had a strong sense of values—what I would call honor—to him. I have kept in touch with Mike over the years. I can't say we have seen each other a lot, but I have watched his career grow with great pride. He was a private practitioner, a distinguished and successful assistant U.S. attorney, a judge who has been extremely well regarded by all who have come before him, as was testified to before the Judiciary Committee on his nomination. He handled some very difficult cases, ruled in cases regarding alleged terrorists and did so to his own personal risk. He had a security detail with him for

some period of time because of the threats he received after one of these cases.

I am honored to say Judge Mukasey asked me to introduce him to the Judiciary Committee, alongside Senator SCHUMER of New York. I said then what I will say here. The man I met 43 years ago is today essentially the same man—honorable, intelligent, with a real sense of values, a commitment to public service, a man of the law, not a man of politics, exactly the kind of person America always needs as Attorney General, but particularly needs at this moment.

I thought he handled his nomination hearing extremely well. Now there is rising opposition to this nomination based on Judge Mukasey's answer to a single question, which is whether he would say that waterboarding technique of interrogation is torture. Judge Mukasey has preferred to give the easy, I might say politically correct, answer—and he has argued with us, he has educated us, I add, to understand that his answer is not about whether we are for or against waterboarding.

He says, to himself the technique described—I am reading from a letter of October 30, 2007, from Judge Mukasey to members of the Judiciary Committee who had written to him:

I was asked at the hearing and in your letter questions about the hypothetical use of certain coercive interrogation techniques. As described in your letter, these techniques seem over the line or, on a personal basis, repugnant to me. . . .

This is not to say Judge Mukasey is for waterboarding. That is not what is at issue, and we should not allow it to become so. He is responding as a man of the law, as a judge, as a man who would be, if we allow him, exactly the kind of Attorney General we need. He says:

But hypotheticals are different from real life, and in any legal opinion the actual facts and circumstances are critical. As a judge, I tried to be objective in my decision-making and to put aside even strongly held personal beliefs when assessing a legal question because legal questions must be answered based solely on the actual facts, circumstances, and legal standards presented. A legal opinion based on hypothetical facts and circumstances may be of some limited academic appeal but has scant practical effect or value.

Bottom line, the judge is saying waterboarding is repugnant but I cannot say as a matter of law that it is torture under the law because I don't know exactly what waterboarding is and how it is used, and I have not seen the prevailing legal memos that have governed, because they are classified interrogations by employees of our Government.

He says in the letter of October 30:

I have not been briefed on techniques used in any classified interrogation program conducted by any government agency.

He is saying: How can you expect me to essentially issue a legal opinion when I don't know the facts and I can't know the facts until and unless you allow me to be Attorney General?

Then he says something I think is very important in his letter. He writes to the Judiciary Committee members:

I do know, however, that "waterboarding" cannot be used by the United States military because its use by the military would be a clear violation of the Detainee Treatment Act. That is because "waterboarding" and certain other coercive interrogation techniques are expressly prohibited by the Army Field Manual on Intelligence and Interrogation, and Congress specifically legislated in the [Detainee Treatment Act of 2005] that no person in the custody or control of the Department of Defense or held in a DOD facility may be subject to any interrogation techniques not authorized and listed in the Manual.

So there is a law and he has made clear that because there is a law, he definitely believes waterboarding cannot be used by Department of Defense personnel.

The fact is that the Detainee Treatment Act of 2005 did not explicitly ban waterboarding or other specific techniques of interrogation as used by other employees of the Federal Government, including presumably and particularly employees of our intelligence agencies.

The Detainee Treatment Act banned "cruel, inhuman, and degrading treatment." Judge Mukasey says in his letter:

In the absence of legislation expressly banning certain interrogation techniques in all circumstances, one must consider whether a particular technique complies with relevant legal standards.

He simply cannot do this in the absence of a clear legislative expression by Congress that waterboarding constitutes torture without seeing the documents, without understanding the definition of waterboarding, as applied in particular cases. He is a man of the law. He is saying, as he said in his testimony and in this letter, no one, including the President, is above the law.

It would be very easy to remove any doubts and opposition to his confirmation if he just said in his letter: Waterboarding is torture. But he responds to a higher authority. It is the law in a nation that claims to be governed by the rule of law.

In his testimony before the Judiciary Committee, he was repeatedly questioned in regard to his independence, and following Attorney General Gonzales's close relationship with the White House, members of the committee were clearly interested in whether Judge Mukasey would be independent of the White House, of the President. He said he would do what the law required him to do. No one is above the law, including the President.

In refusing to tell questioning members of the Judiciary Committee, colleagues of ours, what they want to hear in this case, he is also showing his independence. He is saying he will not be pressured by Members of the Senate, including those who will determine whether he is confirmed. He will not simply tell them what they want to hear if he thinks it is not the legally

responsible thing to do. That is exactly the kind of man I want and I believe we all should want as Attorney General of the United States.

So he is putting his confirmation as Attorney General at risk because he believes it would not be justified as a matter of law for him to conclude, without benefit of documents that he cannot see now, that waterboarding is torture. And for this will we reward this good man, this public servant, this distinguished judge, this man of the law, by rejecting his nomination?

Here is the kind of independence, the kind of allegiance to the public interest and the rule of law the American people want to see more of and not less in Washington. It is why I repeat what I said at the beginning. To reject the nomination of Judge Michael Mukasey because he refuses to say what some Members want him to say on this question and he refuses as a matter of sincerely held legal belief what his legal responsibility is would be grossly unfair and an unjust act to this judge.

May I suggest an alternative course to my friends on the Judiciary Committee and Members of the Senate who hopefully will get to consider this nomination? Confirm Judge Mukasey based on his overall record of service, his obvious intelligence, honor and integrity, the extent to which he will raise the morale of the Department of Justice. Look at his entire record. Don't turn him down and deprive the Nation of his service as our chief law enforcer because of one legal opinion he has reached that is different from yours.

Confirm him. And then, as Attorney General, he will have access to the documents about waterboarding. He will have access to the people who may or may not have been involved in it. He will have access to the prevailing legal memos, and then demand he issue a legal opinion and respond to your question. But don't reject a man of the law, exactly the kind of man America needs today, as our Attorney General.

I thank the Chair, and I yield the floor.

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

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

Mr. REID. Madam President, we have tried hard to arrive at another compromise. I do not know how—it would be physically impossible for us—to do any more than what I have suggested. I have said, when told that the negotiators needed more time, we will wait until after the farm bill and go after this issue. Objected to. I was called by my friends on the other side of the aisle yesterday, who said: Can we have a little more time? I said: Sure.

I came today and said let's finish this matter this coming Monday. Let's finish it after the farm bill. And both times there was an objection.

I have met with Senators HATCH and GRASSLEY on many occasions. On every occasion I can think of Senator BAUCUS has been there, and in some of those meetings Senator ROCKEFELLER has been present. The four of us have had a significant number of meetings with the Speaker, with Chairman DINGELL, and Chairman RANGEL.

I went down at 20 after 2 today and met with a number of Republican House Members, relaying to them—and I have no doubt that they would acknowledge this—that we have tried to work with them in coming up with something.

Now, I explained to them the Senate rules. If I wanted to not have this cloture vote, I couldn't stop it. It takes unanimous consent to move from our doing this. I explained that to them. But I did tell them this, and I will say to you and those within the sound of my voice what I told those freshmen. I believe the negotiations that have taken place in this matter have been in good faith. There has been no bad faith by the participants.

The burden has been borne by the chairman of the Finance Committee, Senator BAUCUS, and the ranking member, Senator GRASSLEY. Senator HATCH, who was the original sponsor of this bill, with Senator KENNEDY, has been involved from the very beginning. Senator HATCH was at the meeting where I met with House Republicans. Senator BAUCUS was there, and I repeat what I told them. If we can't do something now, and we send the bill to the President and he vetoes it, I don't think we should rush forward and try to override his veto. I think we should just let things simmer a little while.

I told them if they could come up with something that we can work with—I spoke to the Speaker this morning, and I said: I am not sure we can move much further.

She said: You should see the changes they want to make. There is very little. There isn't much that they want—which was comforting to me. And that is what the House Members told me today when I met with them this afternoon.

So I would hope people understand that good-faith negotiations have taken place on a bipartisan, bicameral basis on this most important piece of legislation. I am not happy with the President on this issue. I think he is making a big mistake. I think he is hurting some of his House Members, who could be in a very precarious position as a result of voting no to overriding his veto, but that is the decision they have made. And I am willing to try to get them out of the hole I think some of them are in.

Yesterday the President came from left field. Talk about a sucker punch. He suddenly said: I don't like the way this is paid for.

We are paying for it. It is not deficit spending. We are taking care of this with a relatively small tax on cigarettes and cigars. That surprised everybody. It surprised everybody that the President now, when he learned that we had changed things—got adults off the program, changed its to limit waivers, tightened down the immigration issue. We did everything he asked us to do, and now he changes the program again.

We are at a point now where the President does not become relevant to this issue because in the bipartisan, bicameral work that we have done between the House and the Senate, we want to do this ourselves, so that when we come to a decision on what we can do, and I think we are within days of doing that, we will bring this bill back. The Speaker said she would do it; I said I would do it.

I express my appreciation to the courtesies extended to me by Senators GRASSLEY and HATCH on the Republican side and the extreme patience of Senator BAUCUS for allowing the many different diversions that we have had in getting to the point where we are today. With the understanding and the hope that we can move forward on this bill, and even though some of these programs are going to change drastically by March because there will be as many as 11 States that will run out of money, hopefully in the next few weeks we can change this legislation and still insure 10 million children and maintain a program that is reasonable for the States and certainly the children we are trying to protect.

So I again express my appreciation to the participants of the many involved in the negotiations, and I want to also reach out my hand in friendship to the Speaker. There isn't a Democrat or Republican, including Senators GRASSLEY and HATCH, who would not say publicly how willing she has been to try to work to come to some reasonable conclusion of this legislation. She has been great, as has Chairman RANGEL and Chairman DINGELL.

Madam President, I yield the floor. Is there anyone on the floor who wants to take the remaining time? Good.

I yield to my friend, the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. I thank the Chair.

Madam President, I commend our leadership for working out the fact that we can start to bring some closure on children's health insurance. We have had experience in Florida of doing a health insurance program before the Federal program ever started, 10 years ago, and it was tremendously successful and popular in getting to families who were just over the income level of Medicaid but who were still too limited in their income to provide health insurance for their children.

As a result, thousands of children in Florida, before CHIP ever came along,

were provided for. But then the Federal program came along and made it available to so many more. Yet even today, with Florida's program and the Federal program, there are still 700,000 children in the State of Florida who do not have health insurance. What we are hoping is that with the expansion of the CHIP program, we will be able to include 400,000 of those 700,000 who do not have health insurance.

(The remarks of Senator NELSON of Florida pertaining to the introduction of S. 2295 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. NELSON of Florida.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 450, H.R. 3963, Children's Health Insurance Program Reauthorization Act of 2007.

Max Baucus, Harry Reid, Benjamin L. Cardin, S. Whitehouse, Robert Menendez, Daniel K. Inouye, Jack Reed, Barbara Boxer, Pat Leahy, Bernard Sanders, Ken Salazar, Kent Conrad, Ron Wyden, Byron L. Dorgan, Debbie Stabenow, Bill Nelson, Robert P. Casey, Jr.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived. The question is, Is it the sense of the Senate that debate on H.R. 3963, an act to amend title XII of the Social Security Act to extend and improve the Children's Health Insurance Program, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Illinois (Mr. OBAMA), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from Virginia (Mr. WARNER).

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

The yeas and nays resulted—yeas 65, nays 30, as follows:

[Rollcall Vote No. 402 Leg.]

YEAS—65

Akaka	Cardin	Feingold
Alexander	Carper	Feinstein
Baucus	Casey	Grassley
Bayh	Coleman	Harkin
Biden	Collins	Hatch
Bingaman	Conrad	Hutchison
Bond	Corker	Inouye
Boxer	Dodd	Johnson
Brown	Domenici	Kennedy
Byrd	Dorgan	Kerry
Cantwell	Durbin	Klobuchar

Kohl	Murkowski	Schumer
Landrieu	Murray	Smith
Lautenberg	Nelson (FL)	Snowe
Leahy	Nelson (NE)	Specter
Levin	Pryor	Stabenow
Lieberman	Reed	Stevens
Lincoln	Reid	Sununu
Lugar	Roberts	Tester
McCaskill	Rockefeller	Webb
Menendez	Salazar	Whitehouse
Mikulski	Sanders	

NAYS—30

Allard	Craig	Isakson
Barrasso	Crapo	Kyl
Bennett	DeMint	Lott
Brownback	Dole	Martinez
Bunning	Ensign	McConnell
Burr	Enzi	Sessions
Chambliss	Graham	Shelby
Coburn	Gregg	Thune
Cochran	Hagel	Vitter
Cornyn	Inhofe	Voinovich

NOT VOTING—5

Clinton	Obama	Wyden
McCain	Warner	

The PRESIDING OFFICER. On this vote, the yeas are 65, the nays are 30. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader is recognized.

Mr. REID. Madam President, we are going to have a vote in just a few minutes. I know people have things to do. This will be the last vote this week. But I alert all Members, we have had a number of meetings today with Senator MCCONNELL. We are trying to work it out so we do not have to have cloture on the motion to proceed to the farm bill.

I understand that the minority has to take a look at the amendment to the bill that has come out of the committee and was all ready to go and the Finance Committee needed to make some changes on it. That should be back from Legislative Counsel in just a matter of minutes—at least we hope that is the case.

If we do not have to do cloture on the motion to proceed, there will be no votes on Monday. If we do have to do a vote on the motion to proceed, there will be a noon vote on the motion to proceed on Monday, and we will have to do that; otherwise, we will come in and go to the farm bill Tuesday around 2 o'clock in the afternoon so the managers can give their opening statements, and anyone who wants to speak on the bill. There are going to be lots of opening statements on the farm bill, so I would hope people would come early and get those out of the way.

There are a number of people who have expressed to me—who have warned me that there are going to be some amendments on that bill. We are going to have to make sure we do this the right way. We want to make sure there are amendments that are offered. We will have to take a look at them because it is late in the session and the farm bill is a tax bill. So we have to make sure we do not get into any issues we do not need to get into. But we will be as fair as we can possibly be on the farm bill. It is a bill we have to complete.

Also during the next 2 weeks, we have to get the first appropriations bill

to the President. I had a very constructive conversation with Josh Bolton today regarding what will happen when we get that bill to him. We also have other important business to do, such as making sure the Government is funded after November 16.

So we have a very busy week. The President has indicated that probably tomorrow he is going to veto WRDA. We will have to take a look at that.

If there is no cloture vote, we will be on the bill Monday for opening statements, as I indicated. We have a productive farm bill.

I wish to express my appreciation to everyone for the work on the children's health bill. I will repeat what I said before the vote: There has been bicameral, bipartisan work on the CHIP bill—bicameral, bipartisan work. At 2:20 today, I went and met with a number of House Republicans trying to move forward on the children's health initiative. It is my recommendation that this bill will be sent to the President. If he vetoes the bill, it is my recommendation—I will express my feelings to the Speaker—that we not even attempt a veto override.

My Republican colleagues—this is difficult for me to be talking about: I should not say “difficult.” It is unusual for me to be talking about my Republican House colleagues. But they indicated that would be the very best step forward. We are very close to being able to do a bipartisan, bicameral children's health bill. I think we can really do that. I have spoken to the Speaker. She believes that is the case, also. If we can do that, at the earliest opportunity, we will bring that back for consideration of the Senators.

I express my appreciation to Senator BAUCUS, Senator ROCKEFELLER, Senator GRASSLEY, Senator HATCH, and many others. This has been a very difficult but rewarding process for me. It indicates to me that there is the ability of this Congress to work on a bipartisan, bicameral basis, and until we accept that as a truth, we are going to have trouble moving these many bills we have bouncing around here to completion.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, with regard to the schedule for Monday, the farm bill has not been printed yet but, as the majority leader indicated, we expect it momentarily. I am optimistic we will not end up having to invoke cloture on the motion to proceed Monday and that we will, as the majority leader suggested, not have to be back until Tuesday morning. I can't announce that right now, but I am optimistic we will be able to get that cleared up in the very near future.

The PRESIDING OFFICER. Under the previous order, the clerk will read the bill for the third time.

The bill was read the third time.

The PRESIDING OFFICER. Under the previous order, the question is on passage of the bill.

The yeas and nays have not been ordered.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. OBAMA), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from Virginia (Mr. WARNER).

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

The result was announced—yeas 64, nays 30, as follows:

[Rollcall Vote No. 403 Leg.]

YEAS—64

Akaka	Feinstein	Murray
Alexander	Grassley	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Bayh	Hatch	Pryor
Biden	Hutchison	Reed
Bingaman	Inouye	Reid
Bond	Johnson	Roberts
Boxer	Kennedy	Rockefeller
Brown	Kerry	Salazar
Byrd	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Smith
Carper	Lautenberg	Snowe
Casey	Leahy	Specter
Coleman	Levin	Stabenow
Collins	Lieberman	Stevens
Conrad	Lincoln	Sununu
Corker	Lugar	Tester
Domenici	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	
Feingold	Murkowski	

NAYS—30

Allard	Craig	Isakson
Barrasso	Crapo	Kyl
Bennett	DeMint	Lott
Brownback	Dole	Martinez
Bunning	Ensign	McConnell
Burr	Enzi	Sessions
Chambliss	Graham	Shelby
Coburn	Gregg	Thune
Cochran	Hagel	Vitter
Cornyn	Inhofe	Voinovich

NOT VOTING—6

Clinton	McCain	Warner
Dodd	Obama	Wyden

The bill (H.R. 3963) was passed.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

Mr. BROWNBACK. Mr. President, thank you very much.

NOMINATION OF JUDGE MICHAEL MUKASEY

Mr. BROWNBACK. Mr. President, I will not take that much time, but I do want to draw my colleagues' attention to an issue that is going to be in front of the Judiciary Committee and my colleague, the Presiding Officer, this next week, and that is the nomination of Judge Michael Mukasey to be Attorney General of the United States.