foot, 5-inch rugby player with a gentle spirit and a bright future, who died trying to protect his girlfriend from gunfire;

Whereas the Northern Illinois University Police Department, the Police Departments of DeKalb, Sycamore, Aurora, Batavia, Cortland, Galesburg, Genoa, Geneva, Mendota, St. Charles, Rockford, and the Village of Winnebago, the Conservation Police, the Sheriff's Offices of DeKalb County, Winnebago County, and Kane County, the Kane County Bomb Squad, the Illinois State Police, the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Reach/Air Angel, Flight for Life, Life Line, the Salvation Army, and the Fire and Emergency Medical Services Departments of DeKalb, Sycamore, Cortland, Malta, Maple Park, Rochelle, Hampshire, Burlington, Shabbona, Hinckley, Genoa-Kingston, Waterman, Elburn, St. Charles, Ogle-Lee, Kaneville, Sugar Grove, North Aurora, and Somonauk responded to the emergency promptly and assisted capably in the initial crisis and the subsequent investigation;

Whereas the emergency responders and the doctors, nurses, and other health care providers at Kishwaukee Community Hospital, Saint Anthony Medical Center, Good Samaritan Hospital, Rockford Memorial Hospital, and Northwestern Memorial Hospital provided professional and dedicated care to the victims;

Whereas hundreds of volunteer counselors from Illinois and across the Nation have come to Northern Illinois University to assist the campus community;

Whereas the students, faculty, staff, and administration of Northern Illinois University, the people of the city of DeKalb and the State of Illinois, and all Americans have mourned the victims of this tragedy and have offered support to the victims' friends and families and to the greater Northern Illinois University community;

Whereas Northern Illinois University has established a scholarship fund to honor the memory of the students slain in the February 14 tragedy; and

Whereas the Northern Illinois University community is determined to move ''forward, together forward'', in the words of the Huskie fight song, and to persevere through this tragedy with heavy hearts but unbroken spirits: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its sincere condolences to the families, friends, and loved ones of those who were killed in the tragic shooting on February 14, 2008, at Northern Illinois University in DeKalb, Illinois: Gayle Dubowski, Catalina Garcia, Julianna Gehant, Ryanne Mace, and Daniel Parmenter;

(2) extends its support and prayers to those who were wounded and wishes them a speedy recovery;

(3) commends the emergency responders, law enforcement officers, healthcare providers, and counselors who performed their duties with professionalism and dedication in response to the tragedy;

(4) reaffirms its commitment to helping ensure that schools, colleges, and universities in the United States are safe and secure environments for learning; and

(5) expresses its solidarity with Northern Illinois University and its students, faculty, staff, and administration as they mourn their losses and as they recover from this tragic incident.

INDIAN HEALTH CARE IMPROVEMENT ACT AMENDMENTS OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1200, which the clerk will state by title.

A bill (S. 1200) to amend the Indian Health Care Improvement Act to revise and extend that act.

Pending:

Vitter amendment No. 3896 (to amendment No. 3899), to modify a section relating to limitation on use of funds appropriated to the Service.

Dorgan amendment No. 3899, in the nature of a substitute.

Smith amendment No. 3897 (to amendment No. 3899), to modify a provision relating to development of innovative approaches.

Murkowski (for DeMint) amendment No. 4015 (to amendment No. 3899), to authorize the Secretary of Health and Human Services to establish an Indian health savings account demonstration project.

Murkowski (for DeMint) amendment No. 4066 (to amendment No. 3899), of a perfecting nature.

Murkowski (for DeMint) amendment No. 4070 (to amendment No. 3899), of a perfecting nature.

Murkowski (for DeMint) amendment No. 4073 (to amendment No. 3899), of a perfecting nature.

DeMint amendment No. 4080 (to amendment No. 4070), to rescind funds appropriated by the Consolidated Appropriations Act, 2008, for the city of Berkeley, CA, and any entities located in such city, and to provide that such funds shall be transferred to the Operations and Maintenance, Marine Corps account of the Department of Defense for the purposes of recruiting.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, my understanding is that we have a cloture vote that will begin at 5:30 this evening. I know Senator DEMINT has two amendments he intends to offer this evening. We expect to have votes on those amendments. I have an opening statement I wish to give for a short period, and I will defer on that. Senator KYL wishes 10 minutes to speak, with 5 minutes on the bill and 5 minutes, I believe, in morning business. I don't want to disadvantage either of my colleagues. I want to comment about the legislation.

We are finally, at long last, going to pass an Indian Health Care Improvement Act. It has been 8 long years. It is long past due. By tomorrow midday, we will have disposed of all of the amendments, and having succeeded in invoking cloture, we will have finally done something that will give cause for millions of Americans to celebrate in this country for the first time in a long time—an improvement in Indian health and Indian health care.

Mr. President, Senator KYL has asked that he be allowed to speak for 5 minutes at this point. I ask unanimous consent that Senator KYL be recognized, following which I would like to speak—and I will make it short—and then Senator DEMINT will be recognized. I notice that the ranking member, Senator MURKOWSKI, is on the floor as well.

I yield the floor.

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

Mr. KYL. Mr. President, first of all, I will address an amendment to the underlying Indian health bill. It is amendment No. 3897, offered by my friend from Oregon. It is an amendment which I hope my colleagues will reject.

This is an amendment that deals with the way in which moneys are disbursed for health facility construction on Indian reservations. For those of us who represent the majority of our Native American population in the United States, this is a very important proposition because most of the construction, as you could imagine, is on the Indian reservations in the Southwest—in particular, Arizona, New Mexico, and, to a lesser extent, some of the other States. It is wrong, therefore, to try to change the formula by which funding is allocated for construction of these facilities to a broader based around-the-country formula rather than based upon the population we are trying to serve. As a result, I think my colleagues should oppose the amendment.

It is helpful that the amendment is not mandatory but, rather, provides that the Secretary can use what is called an ''innovative approach'' and distribute funding equally among the Indian health care regions rather than target funding to areas where the health care services are needed the most. But it still doesn't make sense to try to use this Indian construction funding as kind of a honey pot of money for everybody to share in equally when certain key areas have the bulk of the need based upon their population. I think this priority based upon need is a much more sensible way to serve our Indian population.

I disagree that the area distribution fund is the answer. It will turn the current process upside down. It would disrupt pending projects. While it may be well intentioned, the amendment doesn't ensure that Federal dollars will be appropriately allocated based upon the greatest health care needs of the individual members of the tribes. Therefore, I urge my colleagues to oppose that amendment.

THE FISA LEGISLATION

Mr. President, I wish to take 2 minutes to address the matter dealt with by my counterpart on the majority side a little while ago, legislation we will presumably have to deal with again—certainly the House of Representatives will—and that is the FISA Act legislation. I wish to put a couple of things in the RECORD. I will explain what they are, and then I will ask consent to do that.

As you know, the Senate has passed this important FISA legislation. The legislation will enable us to continue to collect foreign intelligence on our terrorist enemies. We are waiting for the House of Representatives to act on that legislation so that it can be sent to the President for signature.

There has been some confusion about what the effect of the failure of the

House to act really is, because the House allowed the current law to lapse. The person who ought to know what the effect is is Admiral McConnell, the Director of National Intelligence, who joined with Attorney General Mukasey in writing a letter to the chairman of the House Permanent Select Committee on Intelligence, dated February 22, in which he addressed the significant concerns we have, given the fact that there is no current law that enables us to appropriately collect this intelligence.

I ask unanimous consent that this letter be printed in the RECORD.

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

FEBRUARY 22, 2008.

Hon. SILVESTRE REYES,

Chairman, House Permanent Select Committee on Intelligence, House of Representatives, Washington, DC.

DEAR CHAIRMAN REYES: The President asked us to respond to your letter of February 14, 2008, concerning the urgent need to modernize the Foreign Intelligence Surveillance Act of 1978 (FISA). Your assertion that there is no harm, in allowing the temporary authorities provided by the Protect America Act to expire without enacting the Senate's FISA reform bill is inaccurate and based on a number of misunderstandings concerning our intelligence capabilities. We address those misunderstandings below. We hope that you find this letter helpful and that you will reconsider your opposition to the bill passed last week by a strong bipartisan majority in the Senate and, when Congress returns from its recess, support immediately bringing the Senate bill to the floor, where it enjoys the support of a majority of your fellow members. It is critical to our national security that Congress acts as soon as possible to pass the Senate bill.

INTELLIGENCE COLLECTION

Our experience since Congress allowed the Protect America Act to expire without passing the bipartisan Senate bill demonstrates why the Nation is now more vulnerable to terrorist attack and other foreign threats. In our letter to Senator Reid on February 5, 2008, we explained that: ''the expiration of the authorities in the Protect America Act would plunge critical intelligence programs into a state of uncertainty which could cause us to delay the gathering of, or simply miss, critical foreign intelligence information.'' That is exactly what has happened since the Protect America Act expired six days ago without enactment of the bipartisan Senate bill. We have lost intelligence information this past week as a direct result of the uncertainty created by Congress' failure to act. Because of this uncertainty, some partners have reduced cooperation. In particular, they have delayed or refused compliance with our requests to initiate new surveillances of terrorist and other foreign intelligence targets under existing directives issued pursuant to the Protect America Act. Although most partners intend to cooperate for the time being, they have expressed deep misgivings about doing so in light of the uncertainty and have indicated that they may well cease to cooperate if the uncertainty persists. We are working to mitigate these problems and are hopeful that our efforts will be successful. Nevertheless, the broader uncertainty caused by the Act's expiration will persist unless and until the bipartisan Senate bill is passed. This uncertainty may well continue to cause us to miss information that we otherwise would be collecting.

Thus, although it is correct that we can continue to conduct certain activities authorized by the Protect America Act for a period of one year from the time they were first authorized, the Act's expiration has and may well continue to adversely affect such activities. Any adverse effects will result in a weakening of critical tools necessary to protect the Nation. As we explained in our letter to Senator Reid, expiration would create uncertainty concerning: The ability to modify certifications and procedures issued under the Protect America Act to reflect operational needs and the implementation of procedures to ensure that agencies are fully integrated protecting the Nation; The continuing validity of liability of protection for those who assist us according to the procedures under the Protect America Act; The continuing validity of the judicial mechanism for compelling the assistance of private parties needed to protect our national security; The ability to cover intelligence gaps created by new communication paths or technologies.

Our experience in the past few days since the expiration of the Act demonstrates that these concerns are neither speculative nor theoretical: allowing the Act to expire without passing the bipartisan Senate bill has had real and negative consequences for our national security. Indeed, this has led directly to a degraded intelligence capability.

It is imperative that our intelligence agencies retain the tools they need to collect vital intelligence information. As we have explained before, the core authorities provided by the Protect America Act have helped us to obtain exactly the type of information we need to keep America safe, and it is essential that Congress reauthorize the Act's core authorities while also extending liability protection to those companies who assisted our Nation following the attacks of September 11, 2001. Using the authorities provided in the Protect America Act, we have obtained information about efforts of an individual to become a suicide operative, efforts by terrorists to obtain guns and ammunition, and terrorists transferring money. Other information obtained using the authorities provided by the Protect America Act has led to the disruption of planned terrorist attacks. The bipartisan Senate bill would preserve these core authorities and improve on the Protect America Act in certain critical ways, including by providing liability protection to companies that assisted in defending the country after September 11.

In your letter, you assert that the Intelligence Community's ability to protect the Nation has not been weakened, because the Intelligence Community continues to have the ability to conduct surveillance abroad in accordance with Executive Order 12333. We respectfully disagree. Surveillance conducted under Executive Order 12333 in a manner that does not implicate FISA or the Protect America Act is not always as effective, efficient, or safe for our intelligence professionals as acquisitions conducted under the Protect America Act. And, in any event, surveillance under the Protect America Act served as an essential adjunct to our other intelligence tools. This is particularly true in light of the changes since 1978 in the manner in foreign targets with speed and agility. If we revert to a legal framework in which the Intelligence Community needs to make probable cause showings for foreign terrorists and other national security threats located overseas, we are certain to experience more intelligence gaps and miss collecting information.

You imply that the emergency authorization process under FISA is an adequate substitute for the legislative authorities that have lapsed. This assertion reflects a basic misunderstanding about FISA's emergency authorization provisions. Specifically, you assert that the National Security Agency (NSA) or the Federal Bureau of Investigation (FBI) ''may begin surveillance immediately'' in an emergency situation. FISA requires far more, and it would be illegal to proceed as you suggest. Before surveillance begins the Attorney General must determine that there is probable cause that the target of the surveillance is a foreign power or an agent of a foreign power and that FISA's other requirements are met. As explained above, the process of compiling the facts necessary for such a determination and preparing applications for emergency authorizations takes time and results in delays. Again, it makes no sense to impose this requirement in the context of foreign intelligence surveillance of targets located overseas. Because of the hurdles under FISA's emergency authorization provisions and the requirement to go to the FISA Court within 72 hours, our resource constraints limit our use of emergency authorizations to certain high-priority circumstances and cannot simply be employed for every foreign intelligence target.

It is also inaccurate to state that because Congress has amended FISA several times, there is no need to modernize FISA. This statement runs counter to the very basis for Congress's passage last August of the Protect America Act. It was not until the passage of this Act that Congress amended those provisions of FISA that had become outdated due to the communications revolution we have experienced since 1978. As we explained, those outdated provisions resulted in dangerous intelligence gaps by causing constitutional protections to be extended to foreign terrorists overseas. It is critical that Congress enact long-term FISA modernization to ensure that the Intelligence Community can collect effectively the foreign intelligence information it needs to protect the Nation. The bill passed by the Senate would achieve this goal, while safeguarding the privacy interests of Americans.

LIABILITY PROTECTION

Your assertion that the failure to provide liability protection for those private-sector firms that helped defend the Nation after the September 11 attacks does not affect our intelligence collection capability is inaccurate and contrary to the experience of intelligence professionals and to the conclusions the Senate Select Committee on Intelligence reached after careful study of the matter. It also ignores that providing liability protection to those companies sued for answering their country's call for assistance in the aftermath of September 11 is simply the right thing to do. Through briefings and documents, we have provided the members of your committee with access to the information that shows that immunity is the fair and just result.

Private party assistance is necessary and critical to ensuring that the Intelligence Community can collect the information needed to protect our country from attack. In its report on S. 2248, the Intelligence Committee stated that ''the intelligence community cannot obtain the intelligence it needs without assistance'' from electronic communication service providers. The Committee also concluded that ''without retroactive immunity, the private sector might be unwilling to cooperate with lawful Government requests in the future without unnecessary court involvement and protracted litigation. The possible reduction in intelligence that might result from this delay is simply unacceptable for the safety of our Nation.'' Senior intelligence officials also have testified regarding the importance of providing liability protection to such companies for this very reason.

Even prior to the expiration of the Protect America Act, we experienced significant difficulties in working with the private sector because of the continued failure to provide liability protection for such companies. These difficulties have only grown since expiration of the Act without passage of the bipartisan Senate bill, which would provide fair and just liability protection. Exposing the private sector to the continued risk of billion-dollar class action suits for assisting in efforts to defend the country understandably makes the private sector much more reluctant to cooperate. Without their cooperation, our efforts to protect the country cannot succeed.

PENDING LEGISLATION

Finally, as you note, the House passed a bill in November to amend FISA, but we immediately made clear that the bill is unworkable and unacceptable. Over three months ago, the Administration issued a Statement of Administration Policy (SAP) that stated that the House bill ''falls far short of providing the Intelligence Community with the tools it needs to collect effectively the foreign intelligence information vital for the security of the Nation'' and that ''the Director of National Intelligence and the President's other senior advisers would recommend that the President veto the bill.'' We adhere to that view today.

The House bill has several grave deficiencies. First, although numerous senior intelligence officials have testified regarding the importance of affording liability protection for companies that assisted the Government in the aftermath of September 11, the House bill does not address the critical issue of liability protection. Second, the House bill contains certain provisions and serious technical flaws that would fatally undermine our ability to collect effectively the intelligence needed to protect the Nation. In contrast, the Senate bill deals with the issue of liability protection in a way that is fair and that protects the national security. In addition, the Senate bill is carefully drafted and has been amended to avoid technical flaws similar to the ones in the House bill. We note that the privacy protections for Americans in the Senate bill exceed the protections contained in both the Protect America Act and the House bill.

The Department of Justice and the Intelligence Community are taking the steps we can to try to keep the country safe during this current period of uncertainty. These measures are remedial at best, however, and do not provide the tools our intelligence professionals need to protect the Nation or the certainty needed by our intelligence professionals and our private partners. The Senate passed a strong and balanced bill by an overwhelming and bipartisan margin. That bill would modernize FISA, ensure the future cooperation of the private sector, and guard the civil liberties we value. We hope that you will support giving your fellow members the chance to vote on this bill.

Sincerely,

MICHAEL B. MUKASEY,
Attorney General.
J.M. MCCONNELL,
Director of National Intelligence.

Mr. KYL. Mr. President, in addition to that, the Department of Justice has issued a news release dated February 23 that is titled ''Statement by the Department of Justice and the Office of the Director of National Intelligence Regarding Cooperation with Private Partners,'' which press release makes it very clear that we are having a very difficult time in dealing with the telecommunications companies that are assisting the U.S. Government in the absence of a law which properly provides for liability protection for them and sets out the ground rules for their intelligence collection.

I ask unanimous consent to have printed in the RECORD the statement to which I just referred.

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

STATEMENT BY THE DEPARTMENT OF JUSTICE AND THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE REGARDING COOPERATION WITH PRIVATE PARTNERS

As stated in the joint letter from the Attorney General and the Director of National Intelligence dated February 22, the Department of Justice and the Intelligence Community have been working assiduously to mitigate the effects of the uncertainty caused by the failure to enact long-term modernization of the Foreign Intelligence Surveillance Act of 1978. We learned last night after sending this letter that, as a result of these efforts, new surveillances under existing directives issued pursuant to the Protect America Act will resume, at least for now. We appreciate the willingness of our private partners to cooperate despite the uncertainty. Unfortunately, the delay resulting from this discussion impaired our ability to cover foreign intelligence targets, which resulted in missed intelligence information. In addition, although our private partners are cooperating for the time being, they have expressed understandable misgivings about doing so in light of the on-going uncertainty and have indicated that they may well discontinue cooperation if the uncertainty persists. Even with the cooperation of these private partners under existing directives, our ability to gather information concerning the intentions and planning of terrorists and other foreign intelligence targets will continue to degrade because we have lost tools provided by the Protect America Act that enable us to adjust to changing circumstances. Other intelligence tools simply cannot replace these Protect America Act authorities. The bipartisan Senate bill contains these authorities, as well as liability protection for those companies who answered their country's call in the aftermath of September 11. We hope that the House will pass this bill soon and end the continuing problems the Intelligence Community faces in carrying out its mission to protect the country.

Mr. KYL. Finally, Mr. President, the Director of National Intelligence, Admiral McConnell, was on a television program in which he made some points related to this issue. Among other things, he said:

We cannot do this mission, we cannot do this activity without the help of the private sector.

Upon expiration of the Protect America Act ''the private sector partner said, 'Well, wait a minute, are we now protected?' So we went through a discussion for the entire week. Now, this is the problem. We may have the authority to conduct surveillance, and we do, for example, on al-Qaida, but you can't make that actionable if you don't have something specific to load in our systems to target. So when we wanted to load new information, the private partners said, 'We're not prepared to do that.' So we negotiated all week to be able to come to closure.''

The point he is making is, we are in a situation right now of grave vulnerability. Intelligence is not being collected, so there is no law under which it can be collected. The private parties with whom we must work to collect that intelligence are in a position of great vulnerability because of lack of liability protection, as a result of which there can undoubtedly arise a question as to whether they will continue to be able to perform this service for us. That is why we ask the House of Representatives to take up the Senate-passed legislation and to pass it as soon as possible and send it to the President so this vulnerability of which the Director has spoken can come to an end and we can resume collection of intelligence on our terrorist enemies.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I will make a few comments, and then Senator DEMINT, by unanimous consent, will be recognized. He will have the time that he desires to speak about his two amendments that we will vote on this evening.

I begin quickly by saying that we have had a lot of help to get this bill this far: Senator REID, first of all, for allowing us and being persistent in getting this bill to the floor and to keep it here. Senator KYL has worked closely with us. Senator MURKOWSKI, the ranking member, has worked very hard to help me get this bill from our committee to the floor. Senator KENNEDY and Senator ENZI and so many others have worked with us to try to make a difference on this legislation.

Let me describe why there is an urgency. We have a trust responsibility for Indian health care. That is different from other responsibilities. A trust responsibility means we took the land from the indigenous Americans, from the first Americans. We took their land but signed treaties and said: Tell you what, we will give you a deal. Here is our responsibility: We will provide health care for you. That was interpreted much later as a trust responsibility.

Let me show what we do on Indian health care compared to other responsibilities we have. This describes how much we spend per person on Medicare, veterans, Medicaid, and so on. We actually spend twice as much money to provide health care for Federal prisoners, those incarcerated in Federal prisons, as we do to meet our responsibility for health care for American Indians. We have a responsibility for both, but we spend twice as much for Federal prisoners' health care as we do for American Indians.

It is not as if there is not a need. American Indians have a 600 percent higher rate of tuberculosis, a 510 percent rate of alcoholism, and diabetes is off the charts. There are about one-third of doctors for Indians versus other populations, and one-fourth of

nurses for Indians as other populations. There is a much higher rate of sudden infant death syndrome. Cervical cancer is four times higher. The suicide rate among Indian teens is 10 times higher in the northern Great Plains, and it is triple in the rest of the country. The statistics are endless. We have a full-scale health care crisis.

This bill in itself will not fix all that is wrong, but it is the first time in 8 years we are finally getting this bill reauthorized. It should have been done 8 years ago. It is now being done, and it is important.

I have described this bill through the eyes of two girls—one age 5, the other age 14, both dead. Let me describe them. Their relatives and parents have allowed me to use their names so that we understand what this is about and what this urgency is.

First, I will explain Ta'Shon Rain Littlelight, a beautiful 5-year-old Indian girl from the Crow Reservation in Montana. Ta'Shon Rain Littlelight died, and the last 3 months of her life was in unmedicated pain. This little girl went to an Indian health clinic again and again to be diagnosed as having a condition of depression, and she was treated for depression. It turns out she had terminal cancer. She was finally rushed to Billings, MT, then rushed to Denver, CO, and diagnosed as having terminal cancer when it was undiagnosed many months before, and it may well have been able to be treated.

When they finally diagnosed this 5-year-old girl, who loved to dance the Indian dances, as having terminal cancer, she asked her mom if she could go to Disney World and see Cinderella's castle and the Make-a-Wish Foundation allowed her to go to Orlando, FL, to see Cinderella's castle.

They got there and checked into a motel, and that evening, in her mother's arms, Ta'Shon Rain Littlelight said: Mommy, I'm sorry I'm sick. I will try to be better. She died that night in her mother's arms. She never got to see Cinderella's castle.

This little girl deserved health treatment, deserved a health system that we would expect for our children, a good diagnosis, first-class health treatment. She did not get it, and she is dead.

So is Avis Littlewind. Avis was 14. Avis Littlewind committed suicide. She lay in her bed for 90 days in a fetal position, missing school, missing everything. Her sister had committed suicide. Her dad took his own life. This young girl age 14 was lying in a fetal position for 3 months and somehow nobody missed her. No mental health treatment was available. Nobody seemed to identify this little girl was in trouble. And then she hung herself. She felt hopeless and helpless and took her life.

A 14-year-old girl is gone. A 5-year-old girl is gone. But it is thousands, thousands of people suffering with a health care system that is not working. It is not working the way we would expect it to work for us and for our families, and it does not work for Native Americans, the first Americans, for whom we have a trust responsibility and to whom we made a promise. That is why we must get this bill done. We will have a cloture vote at 5:30 p.m.

We will have two amendments this evening by Senator DEMINT, a couple of amendments tomorrow morning, and final passage, and there will be a celebration by people who have waited a long time for this legislation to move through the Senate.

Mr. President, I know my colleague, Senator DEMINT, has been waiting patiently. I yield the floor, and my guess is that Senator MURKOWSKI, the ranking member, will wish to be recognized following Senator DEMINT.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I appreciate the words of the chairman on the need to improve Indian health care. It is clear from the Government Accounting Office study that there is no doubt Indian health is suffering and there are many reforms that are desperately needed. I wish to talk about several amendments we proposed that we think will help the bill. One is related to what Senator DORGAN was just talking about and the fact that there is just not enough money currently to provide the health care that is needed for many Indians across the country today.

Unlike a lot of other Federal support for health care, Indian health care provides 100 percent coverage to all members of tribes across the country, regardless of income level. The problem that creates at a time when we are offering new programs and reforms is we are not offering enough money to actually support all the programs that are in this new bill.

My amendment No. 4073, which we call the Indian gaming amendment, would allocate the scarce resources to the poorer tribes by excluding some of the richer tribes that benefit from class III or casino-style gambling.

Many of us have looked at the statistics. Revenues from Indian casino gambling have surpassed $12 billion, and many members of these tribes will receive income from these casinos from $30,000 to over $300,000. There are clear discrepancies in the income in the tribes across the country, and in designing Indian health care reform, it is important that we recognize that fact.

In 2001, there were 290 Indian casinos across 28 States that brought in more than $12.5 billion with more than $5 billion in profit. To put this in context, the average family in South Carolina makes around $50,000 a year. These families, sometimes on their own, sometimes through their employers, have to pay and help pay for their health care and many times deductibles and copays. The average income in the tribes that have casino gambling is generally much higher than that amount. Yet we are providing free health care for these tribes.

This amendment would exclude from the new programs in the underlying bill those tribes with casino gambling, class III gambling, which would take the money that is provided in the bill and allocate it to the poorer tribes, which uses just basic common sense. If we have a limited amount of money to go around, let's target those tribes with the greatest poverty and the greatest need and allow those tribes with the highest incomes to participate in purchasing their own health care. That is amendment No. 4073. We will vote on that amendment today.

Let me address another amendment that will be voted on today; that is, amendment No. 4070 which recognizes that some of the programs in the bill that are designed for injury prevention or safety have actually been used in the past by Government agencies to promote antifirearm programs, gun buyback programs, or programs that generally stigmatize the ownership of guns for collecting, hunting, or self-defense.

This amendment provides that none of the funds in the bill may be used to fund antifirearm programs, gun buyback programs, or programs aimed at discouraging or stigmatizing the private ownership of firearms for collecting, hunting, or self-defense. That is basically the language in the bill.

We know from programs we have looked at before—we have legislation, for instance, that we passed that would prohibit the Centers for Disease Control from doing exactly the same thing; that is, using money that is supposed to be used for safety programs or other injury prevention and actually use it to promote a political agenda which is an anti-second-amendment agenda. This is another amendment we will vote on today.

So two amendments we will be voting on today after the cloture motion vote is the Indian gaming amendment that would exclude those tribes that have the revenue from casinos, as well as the other amendment which would prohibit funds from being used to stigmatize the ownership of guns.

Mr. President, I wish to address another amendment which is pending to this bill, which is what we call the health savings account choice. This amendment would simply make another choice available to Indians in the purchase of their health care. Right now, they have most of the options that we have at the Federal level in our Federal employees plan, but they do not yet have a health savings account option which we have added to our Federal programs. This simply would allow Indians the same choice that we have. They could purchase a PPO or other plans—managed care, HMO, or with this amendment, they could also have a health savings account with a high-deductible plan.

I encourage my colleagues to support this amendment. I am actually working with the chairman on the possibility that this amendment could be accepted and avoid a vote on the amendment tomorrow; otherwise, we will be voting on it tomorrow before final passage.

I wish to make a few comments on a second-degree amendment that I added to one of these amendments the week before we left last week which we call the Semper Fi amendment. This is an amendment that is not germane and will fall after cloture but still deserves some comment. The Semper Fi amendment is named in honor of the marine motto, which means ''always faithful,'' and it is a bill which I introduced after the Berkeley, CA, city council voted to refer to our marines as unwelcome intruders and had proposed that they leave town—that their recruiting office actually leave town. When I heard of this, it immediately angered me and we developed this bill which would simply take away about $2 million of wasteful Federal earmarks, which were not voted on in the Senate or the House, but were added as what we call report language. We are not trying to take away all their Federal funding but simply to say, if they are not going to respect our marines or their mission, which part of it is recruiting, then certainly they should not be the beneficiary of taxpayer-funded earmarks, and certainly those that aren't necessary.

When I first introduced this bill, it was more to make a point and maybe rattle the cages of the city council, because I know all the people in Berkeley don't feel this way. If anyone looked at the video—and it was one of the most watched videos on YouTube—you could see person after person stepping up and maligning our marines and the job they are doing, not only in Iraq but throughout history, and referring to them as murderers and thugs, unthinkable things being said about the same marines who provided them their freedom of speech.

Some have said by my introducing this bill I am against freedom of speech, and that is not it at all. In fact, the anti-American group Code Pink had been demonstrating for months in front of the marine recruitment office there in Berkeley, and I have no problem with that. They have every right. But they wanted more than freedom of speech, they wanted the power of the local government behind them, to give them an advantage over those who supported the marines, supported their mission, and supported our country. So the city council voted to give Code Pink a free parking place in front of the marine recruitment office, and also voted to give them a permit to use a bullhorn, a megaphone, to shout down any who would want to come into that recruitment office. That is not free speech. That is a government-sponsored political agenda that took the side of a few liberal demonstrators against traditional Americans and the marines who have fought for our freedom of speech.

My amendment got a fair amount of attention and a lot of supporters here in the Senate, which I appreciate. The same bill was also introduced in the House by a number of Republicans. I have been surprised at the response we have gotten—literally thousands of phone calls and e-mails and letters. What this has exposed to me is it is not only a single event, but it has exposed a raw wound not only of our marines but everyone serving in uniform, and their families.

I have heard it when I have been in Iraq, more than once, when I ask our soldiers, marines, and airmen what they need, and the response has often been: Don't forget us. The letters and e-mails I have gotten have indicated the same thing, that finally some are standing up for those who are fighting for our freedoms.

I was surprised by the response. I have gotten letters at home from mothers who have sent me pictures of their marines, thanking those of us who have stood up for their marines. I have agonized over the fact that they need someone to stand up for them.

But when I go back and see what was said in this Chamber and the House Chamber, and what governments such as the city of Berkeley have done, it should come as no surprise to us that there are doubts in the minds of those who put on the uniform that we support them, that we believe in what they do, and that we support their constitutional mission to recruit and to talk about what we offer in our services. People—Americans—are concerned about this.

We have tried to get the Semper Fi act on the floor for an up-or-down vote, and we have not been able to do so. We tried to pass it by unanimous consent, which got 100 percent Republican support but was blocked on the Democratic side. I added it to an amendment to this bill, to try to get a vote, but it will fall after we vote for cloture.

I promise the marines and all those in uniform that I am going to continue to persist until we get a vote on this, because it is not just about this amendment, it is not just about those who support it, it is about letting those who put on the uniform and who are willing to fight for our freedoms know we stand behind them. When any government, at any level, takes a position against them, it is our responsibility here in the Congress to stand up for those marines and those fighting men and women and not to allow them to be taken advantage of and intimidated and bullied by some local government such as we saw in Berkeley.

I have been happy to see some local governments across the country actually pass resolutions in support of the marine recruiters, and I appreciate any across this country who stand and make a statement on behalf of those who are fighting for our freedom. Again, I emphasize that anyone who wants to speak out in protest against marine recruiters, against the Iraq war, or anything, it is their free right. But when government, whether it is a local government or a State government, takes a position against our Federal constitutional amendment to defend this country, which requires the recruitment of marines, soldiers, airmen, and Coast Guard, that is part of our job. It is not freedom of speech when a local government takes a position against what we are charged to do here at the Federal level.

I encourage all those parents, all those in uniform, that the majority of those here in the Senate, in the House, and across this country respect and appreciate what you are doing every day. I got back from Iraq last week, with 2 days on the ground, and I know I speak for all my colleagues when I say I was never prouder of my country and what I do here than when I stood with those in uniform who are sacrificing, in many instances, more than a year away from their family, and some on second and third tours. They are fighting for us and we need to stand up for them. I am going to continue to persist until my colleagues give me a chance to stand with our marines and to support the Semper Fi bill.

Mr. President, I yield the floor, and I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, at this time I yield 7 minutes to the Senator from Wyoming.

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

Mr. ENZI. Mr. President, I thank the Senator from Alaska.

I rise in support of renewing and reinvigorating the Indian health care programs. For too long we have neglected our duty to review this program and ensure that it continues to efficiently deliver high-quality health care. As part of that effort in the last Congress, Senator MCCAIN and I and Senator DORGAN and Senator MURKOWSKI introduced comprehensive legislation that would do that, and I am pleased that a great portion of the bill we are discussing today includes provisions of that bill, which was S. 4122.

In crafting that legislation last Congress, we kept in mind the 80/20 rule in working between the Health, Education, Labor and Pensions Committee and the Indian Affairs Committee. We used this 80/20 rule—or the 80-percent rule—which is that 80 percent of the time we are going to agree on a topic and it is only 20 percent of the time that we disagree. So to gain broad support we focused on that 80 percent to ensure it was a strong bipartisan piece of legislation. It is a piece that is long overdue. This should have been reauthorized years ago. It leaves out some important things that are necessary for the tribes in administering Indian health.

A few weeks ago, I did mention a few remaining concerns I had with the underlying Indian health care bill, and thankfully, due to the work of many in this Chamber, and particularly Senator DORGAN and Senator MURKOWSKI, I no longer have concerns with the underlying legislation. The improvements to the bill required minimal language changes, but they do have huge policy implications. I am glad we are better able to clarify the scope of Federal liability coverage. By doing so, we no longer imply that the Federal Government could be telling Americans how to practice their own religious beliefs. For this and the issue of urban Indians, we were able to find a third way, a middle ground, on the appropriate role for providing services to urban Indians.

I am also pleased to hear that at least two outstanding issues within the Finance Committee's title of this bill have also been resolved. I thank Senator KYL for all his efforts in the area to create better Medicaid copays and better citizenship documentation. I realize others may not see these compromises as the perfect solution. However, they are moving us in the right direction on these key topics. As I remind people around here a lot, there is no such thing as a perfect piece of legislation.

The 80 percent this bill contains will solve immense problems for tribes throughout the United States. It will move health care forward for all who are involved, and it will make a huge difference. It is past due. We still can work on other issues that are outstanding that we hear mentioned around the Chamber in the debate, but this piece of legislation needs to pass. It needs to pass now. It should have passed a year and a half ago.

We almost passed it at the end of that session, until we got the scoring, and the scoring used the wrong bill. They did not use the bill Senator MCCAIN and I and Senators MURKOWSKI and DORGAN put together. They used a different bill, and the cost came in extremely high. And it would, under that bill. It wasn't this bill. It wasn't what we worked on.

It has taken us another year and a half to get to the point where we can pass a bill that will solve the problems for the tribes and keep this program moving forward in a very positive way. I am glad we will be able to pass this legislation out of the Senate, and I look forward to working with others to get this bill signed into law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I appreciate the comments of my colleague from Wyoming, speaking to essentially the urgency of where we are, and the recognition that we have been working on this legislation, the Indian Health Care Improvement Act and its reauthorization—and as he mentioned, it should have passed a year and a half ago—but that we have been working on it for a good 10 years. It has been a collaborative effort of many leaders in the Senate. Senator MCCAIN has been mentioned, as the former chairman of the Indian Affairs Committee. Prior to his chairing that committee, it was Senator Ben Nighthorse Campbell who was leading the effort to move forward with this very important reauthorization.

I had the opportunity to go home to Alaska over this past recess, and it was a busy recess for me, as it was for, I know, many of my colleagues. I had an opportunity to visit Galena, which is the Athabascan Indian village on the Yukon River. I was in Fairbanks, Seward, Anchorage, and my hometown of Girdwood. I had a chance to visit with seven or eight Alaskan natives who are training under the dental health aide therapist program in Anchorage. This is a very unique partnership with the University of Washington School of Medicine. What we are doing in Alaska now is training Alaska natives as midlevel professional dental health aide therapists to go out and provide for the dental health needs of so many in our rural communities, in our villages around the State where they simply do not have any level of dental health care. I am not talking about a dentist who comes every other week. I am saying we don't have a dentist every other year practically in some of these villages. So we are providing a training opportunity that is unique to Alaska and is very important.

So even though it is tough to leave home and come back here to work, it is good to be back here knowing that we are working on the Indian Health Care Improvement Act, working to finish this very important legislation.

We have had many of our colleagues speak about the challenges of delivering quality health care to America's Native people and the funding environment that all have admitted is inadequate to support those needs.

Those challenges are not limited to the lack of funding, they also include the lack of trained personnel who are willing to live in some of the most remote places in which Indian health care is delivered. So that is one side of the coin. But there is also some very real innovation that is going on within the Indian health care delivery system.

As I listened to the debate that went on on the Senate floor in the past several weeks, it dawned on me that we saw a lot of focus, a lot of attention on some of the inadequacies but that we did not spend any time during that debate to recognize the people, the tribal leaders, the health care professionals who are unwilling to let the lack of funding stand in the way of excellence in health care delivery.

So as we move to conclude our debate on this very important piece of legislation for the health of our Native people, I wish to take a few moments this evening to focus on some of the ways, in my home State, our Native leaders and our Indian health care professionals have partnered to overcome what seemed to be insurmountable obstacles in their quest for excellence.

My focus now on these examples from Alaska is not intended to imply we are not seeing innovation in Indian health care delivery in other places of Indian Country, but I have chosen to speak about these programs because I know them, I believe in them.

In the State of Alaska, we have Native people who have lived in more than 200 traditional villages along the rivers and coasts for thousands of years, and Natives continue to occupy those villages today. But those are places, many of them are places where doctors and nurses and physicians assistants or the PAs, where they did not live, and they will not live.

But that does not mean Alaska's Native people lack access to basic medical care. If one gets sick or injured in a Native village which may be hundreds of miles from the nearest hospital, you need to know you are not alone. In our State, we faced up to the challenge of providing access to medical care in remote places by training Native people to serve as community health aide practitioners. This is a program that originated during the tuberculosis epidemics back in the 1950s. They had volunteer chemotherapy aides who gave out oral medicine in the village under the remote supervision of a physician.

In the 1960s, a structured training program was created to train Native people residing in the villages to function as the eyes and ears, the hands of medical personnel who may be hundreds of miles away.

At one point in time, this link between the village health aide and the doctor in the regional hospitals was carried out by a single-sideband radio similar to what the ham operators use. Then later it was carried out by telephone, subsequently e-mail. Now we have a state-of-the-art telemedicine backbone that connects the health aides and the supervising physicians.

Alaska's Community Health Aide/Practitioner Program was first recognized and funded by the Congress in 1968 and is 40 years old this year. It has earned the respect of the medical profession and has tremendously improved the health condition of Alaska's Native people. I mentioned earlier I had a chance to view those young people who are currently in the Dental Health Aide Therapist Program. This is an extension of this concept to improve the oral health condition of Native people who live in places where the dentists may visit once a year if they visit at all.

These are a few examples from my State of the kind of innovation we have seen going on in Indian health care delivery for some time. I wish to give you a more recent example. This is the Southcentral Foundation's patient-centered primary care initiative.

The initiative has transformed the quality of health care delivered to Native people residing in a service area of

150,000 square miles within south-central Alaska. The Southcentral Foundation is a tribal health provider which delivers health care under a self-governance compact with the IHS.

Our CEO of the Southcentral Foundation is Katherine Gottlieb, an Aleut. She was the first Alaskan ever to win the MacArthur Foundation Genius Award. She won that award for the patient-centered primary care initiative I will describe for you.

The initiative itself has been discussed in professional journals ranging from the Journal of the American Medical Association, the Family Practice Magazine published by the American Association of Family Physicians. It is the subject of a case study published by the Institute for Health Care Improvement in Boston, which is one of our Nation's foremost think tanks on health care quality.

In 1977, when Southcentral Foundation began to take over primary care delivery from the IHS, the average delay to schedule a routine appointment ranged from 4 weeks to several months. The no-show rate was about 25 percent for appointments, and patients did not have any idea who their primary care provider was. In 1999, Southcentral Foundation embarked on a massive effort to redesign their system.

Today, patients are guaranteed same-day access to their own primary care provider if they call by a certain point in the afternoon; they get to choose their own primary care provider. They get to change their provider if they do not like the one they have chosen. Use of the emergency room and urgent care for primary care is down 50 percent. Use of specialists is down 50 percent. Wait times have decreased across the system.

Customer satisfaction, 91 percent of customers rate their overall care favorably. That is pretty impressive. Staff satisfaction has improved immeasurably. This is a system where you have members of the medical team, the doctors, the nurses, the physicians assistants, their technicians, and they all come together, they all rely on one another. Everyone is expected to work at the highest level allowed by their professional license.

What we saw with this transformation of Southcentral Foundation was it was not just achieved by throwing more money at the problem, it was achieved by changing the values of the system, from a staff-centered system to a patient-centered system that basically went from kind of a big and impersonable crank-them-through-the-process place—and these are the words of the medical director, Doug Eby—to a customer-owned-and-directed system which operates in accordance with Native values, not necessarily bureaucratic principles.

That transformation began with the decision of Native leaders to exercise their rights of self-governance under the provisions of the Indian Self-Determination and Education Assistance Act.

These self-governance provisions allowed tribes to take over the responsibilities for the delivery of health care from the Federal Government. The bill that is before us today, the Indian Health Care Improvement Act, will provide self-governance providers, such as Southcentral Foundation, with the tools and the flexibilities they need to further expand these innovations.

We know the bill, S. 1200, was not written in an ivory tower; it was written primarily by Indian health care providers, tribal leaders who know the challenges we face in improving the health conditions of our Native people.

The leaders of our Alaska Native delivery system were key players in the process of formulating this legislation. For me, it is truly an honor and a privilege to be able to give voice to their ideas in the Senate. It is my sincere hope our colleagues today will vote to bring the debate on this important legislation to a close.

The process, as has been mentioned, of drafting this legislation began back in 1999. It has moved through the Indian Affairs Committee in so many different years—I mentioned, under the leadership of Senator Nighthorse Campbell, Senator MCCAIN, Senator Thomas before his death, Senator DORGAN, so many who have put so much time and effort into this very important legislation.

It is long time that Congress modernize the legislation which governs the Indian health care delivery system in a way that promotes exactly this type of innovation I have spoken to that we have seen in Alaska. It is long time that we give our Indian health care providers the tools they need in their quest for excellence.

I anticipate we will move this legislation to final passage. It is something that as I speak to my constituents back home and as we talk about those issues that are most important to them, so much seems to come back to health care and how we are providing health care within the State of Alaska or around the Nation.

So passage of the Indian Health Care Improvement Act is long overdue. I look forward to seeing the day the President will be able to enact these changes into law.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. I ask unanimous consent that the vote sequence beginning at 5:30 today be as follows:

Cloture on the Dorgan-Murkowski substitute amendment; DeMint amendment No. 4070; and DeMint amendment No. 4073.

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

Mr. DORGAN. Mr. President, I ask unanimous consent that the votes following the first vote be 10-minute votes, with 2 minutes equally divided for debate.

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

Mr. DORGAN. Let me explain that the legislation, the Indian Health Care Improvement Act, does a number of things. We have talked about the urgency for it, but it expands cancer screenings, for example; it expands monitoring and prevention programs for communicable and infectious diseases; it expands recruitment and scholarship programs for those nurses and doctors who serve American Indians; it seeks to address the epidemic of teenage suicides on some Indian reservations; it enhances and expands the current diabetes screening efforts; it tries to address the shortage of health care professionals; provides for home- and community-based services and hospice care; also authorizes convenient care services; and authorizes programs to address domestic violence and sexual abuse.

In short, it is a piece of legislation that attempts to modernize the Indian health care system that has been waiting to be reauthorized now for 8 years. So this is a piece of legislation that I think is going to make a difference in the lives of Americans who have expected and have been promised good health care and have, for a long time, not received it.

While we are waiting for colleagues who may wish to speak prior to 5:30, I ask unanimous consent to speak for 3 minutes in morning business.

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

STRATEGIC PETROLEUM RESERVE

Mr. DORGAN. Tomorrow, we have a hearing in the Senate Energy Committee that deals with the issue of the Strategic Petroleum Reserve, called SPR, and the Administration's oil fill policies. In the 1970s, we have created a Strategic Petroleum Reserve to put oil underground to save it in case of a national security concern. It would be for an emergency so we would have some that is saved and would be available to take out of the underground caverns and use it in these circumstances. This is the basis of our strategic petroleum reserve. It is now almost 97 percent filled. Over its 30-year lifetime, the barrels that have been put into the Strategic Petroleum Reserve have averaged about a $27 a barrel. Yet, right now, when oil is trading at $100 a barrel and gasoline prices are going through the roof, we are putting 50,000 to 60,000 barrels a day underground into the Strategic Petroleum Reserve that is already almost 97 percent full.

How are we doing that? Our Government carries that out through royalty-in-kind transfers. This oil is primarily coming from the Gulf of Mexico through the drilling and the production

that occurs there. We are receiving this oil in kind in lieu of royalties paid to the government for its production. So rather than put that oil into the supply system, get the money for it, and reduce the Federal deficit, we are effectively sticking that money underground in a hole. At a time when oil is $100 a barrel and gas is $3 to $3.50 a gallon, we are taking 50,000 to 60,000 barrels a day and sticking it underground. Is somebody missing a few tubes here? I don't understand it. The wiring must be wrong for people who think that is the right thing to do. This is exactly the wrong time to be sticking oil underground when oil is $100 a barrel. Yet I have tried very hard to get this changed, and I have been unable to do so.

We have a hearing tomorrow where we have representatives coming from the Department of Energy as well as other witnesses. I will have an opportunity, if I am not here on the floor—and I hope I am not—to question them. I have recently introduced legislation—S. 2598, the Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act of 2008. I will try very hard to move this bill on anything that moves, especially a supplemental appropriations bill, to make sure we stop this as soon as possible.

I chair the Senate Energy and Water Appropriations Subcommittee that funds the Department of Energy. When I write my bill this spring, I will be able to put a provision that stops filling the SPR in my bill. But that bill likely won't be effective until towards the end of the year. By that time, they will have continued to put all of this oil underground to its full capacity and also boost the gas prices for the American driver. I don't understand what they could be thinking.

As a part of this fill policy, they are putting underground a disproportionate amount of sweet light crude. That is a subset of the oil produced in the U.S. We had testimony before a joint Energy and Government Affairs/Homeland Committee hearing last year by an expert, Dr. Phillip Verleger, who said that even the small amount of sweet light crude they are putting underground is having a disproportionate impact on the markets and may be increasing the price of gasoline by 10 percent.

If there are some wires crossed someplace, I urge the Department of Energy to track those wires down and get them squared away. Let's start thinking straight. Do not be sticking oil underground when oil is $100 a barrel. That takes oil out of our supply. It means supply is diminished, even if it is a seemingly small amount as DOE contends. It means the price goes up.

This is a classic supply-demand question. All of us have studied economics. I taught economics in college ever so briefly. I was able to overcome that experience, nonetheless. But we all understand the supply-demand relationship. If you take oil out of what otherwise would be 50,000 or 60,000 additional barrels in the supply, you put upward pressure on gasoline prices. That is especially true if you take the subset of sweet light crude coming from the Gulf of Mexico and stick it underground at exactly the time it ought be to be in the supply pipeline.

Tomorrow, we will have the opportunity to have a public discussion with the Department of Energy and representatives with other opinions. If they don't do what is, in my judgment, obvious, I intend to move my legislation forward. I have introduced this bill with about six cosponsors. I certainly hope many others will join me to put the brakes on what the Department of Energy is now doing.

It is completely counterintuitive to anything one would expect that should be done at a time when oil is bouncing around at $100 a barrel and you have to get a loan to gas up your car these days. My hope is we can get the Department of Energy to think straight about this issue of putting oil underground in the SPR.

It felt good to say that because I have been thinking about it all weekend. There is so much we need to do that just represents a deep reservoir of common sense. This is one of those steps. My hope is we will make some progress on it.

Mr. COCHRAN. Mr. President, I am pleased to be a cosponsor of the Indian Health Care Improvement Act.

Under the terms of many treaties and agreements, the U.S. Government has the responsibility to provide health care and other benefits to Native Americans.

The Indian Health Care Service estimates that it provides only about 60 percent of the health care that is needed in Indian Country: an amount that is less than half of what we spend on the health care needs of Federal prisoners. Tribes with the resources, attempt to make up the difference. In most cases, the result is inadequate to meet the needs of our Native American population.

In my State, the Mississippi Band of Choctaw Indians has made progress in improving its health care, and the overall health of its population, over the last 30 years. But, the sad fact is that health care on the reservation is not adequate.

There are 9,600 members of the tribe and there are only 4 doctors. Their small hospital has only 14 beds.

Over the last 5 years, there has been a 30.4-percent increase in the number of patients from the Mississippi Band of Choctaw Indians who accessed the health care system. During that same time period there was a 41.4-percent increase in the number of ambulatory visits.

According to the Centers for Disease Control, 7 percent of Americans have diabetes. By comparison, 20.5 percent of Choctaws have diabetes, one of the highest percentages of any tribe in the country. Over the last 5 years, there was a 62.3-percent increase in the number of patients diagnosed with diabetes.

Statistics for other tribes are similar. Some include alarming incidences of suicide, high infant mortality rates and practically nonexistent mental health care.

Some in the Senate have suggested that those tribes that have made progress with economic development initiatives, specifically through gaming, ought not be eligible for Indian Health Care Services. I don't agree. The tribe in my State should not be penalized for its modest economic success.

The tribe is responsible for the safety of not only its members but those who visit. It maintains roads, schools, courts, law enforcement, fire fighting, housing, and other services we expect from local and State governments.

It has a poverty rate of approximately 30 percent. Forty years ago there was a near 100 percent unemployment rate of tribal members.

There is no health care system near the tribe that has the capacity to serve tribal members. Even now, treatment facilities for dialysis, heart patients, and serious medical conditions are 80 miles away.

I urge the Senate to support the Indian Health Care Improvement Act.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The 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, hereby move to bring to a close debate on the Dorgan substitute amendment No. 3899 to S. 1200, the Indian Health Care Improvement Act Amendments.

Harry Reid, Russell D. Feingold, Kent Conrad, Richard Durbin, Amy Klobuchar, Patty Murray, Maria Cantwell, Jon Tester, Jeff Bingaman, Carl Levin, Max Baucus, Byron L. Dorgan, Barbara Boxer, Dianne Feinstein, Debbie Stabenow, Ken Salazar, Daniel K. Akaka.

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 amendment No. 3899, offered by the Senator from North Dakota, Mr. DORGAN, to S. 1200, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Maryland (Mr. CARDIN), the Senator from New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Illinois (Mr. OBAMA), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

I further announce that, if present and voting, the Senator from Maryland (Mr. CARDIN) would vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from North Carolina (Mr. BURR), the Senator from Texas (Mr. CORNYN), the Senator from Arizona (Mr. MCCAIN), the Senator from Virginia (Mr. WARNER), and the Senator from Mississippi (Mr. WICKER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Texas (Mr. CORNYN) would have voted ''yea.''

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

The yeas and nays resulted—yeas 85, nays 2, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—85

Akaka	Dorgan	Menendez
Allard	Durbin	Mikulski
Barrasso	Ensign	Murkowski
Baucus	Enzi	Murray
Bayh	Feingold	Nelson (FL)
Bennett	Feinstein	Nelson (NE)
Biden	Graham	Pryor
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Boxer	Hagel	Roberts
Brown	Harkin	Rockefeller
Brownback	Hatch	Salazar
Bunning	Hutchison	Sanders
Byrd	Inhofe	Schumer
Cantwell	Isakson	Sessions
Carper	Johnson	Shelby
Casey	Kennedy	Smith
Chambliss	Klobuchar	Snowe
Coburn	Kohl	Specter
Cochran	Kyl	Stevens
Coleman	Lautenberg	Sununu
Collins	Leahy	Tester
Conrad	Levin	Thune
Corker	Lieberman	Voinovich
Craig	Lincoln	Webb
Crapo	Lugar	Whitehouse
Dodd	Martinez	Wyden
Dole	McCaskill	
Domenici	McConnell	

NAYS—2

DeMint	Vitter

NOT VOTING—13

Alexander	Inouye	Stabenow
Burr	Kerry	Warner
Cardin	Landrieu	Wicker
Clinton	McCain	
Cornyn	Obama	

The PRESIDING OFFICER. On this vote, the yeas are 85, the nays are 2. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4080

Mr. DORGAN. Mr. President, I make a point of order that the DeMint amendment No. 4080 is not germane postcloture.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 4070 TO AMENDMENT NO. 3899

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote on amendment No. 4070 offered by the Senator from South Carolina, Mr. DEMINT.

Who yields time?

Mr. DEMINT. Mr. President, the underlying Indian health care bill allows Federal funds to be used for certain health promotion activities which include injury prevention, personal safety, and violence prevention. My amendment would simply say that none of these funds in the bill may be used to fund any firearm programs, gun buyback programs, or programs aimed at discouraging or stigmatizing the private ownership of firearms for collecting, hunting, or self-defense purposes, which are important to the Indian community. So that is my amendment.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I have no objection to the amendment. I know of no cases in which Indian health funds have been used for firearms programs. So I have no objection to the amendment and intend to vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. DEMINT. Mr. President, I ask for the yeas and nays.

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Maryland (Mr. CARDIN), the Senator from New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Illinois (Mr. OBAMA), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Texas (Mr. CORNYN), the Senator from Arizona (Mr. MCCAIN), the Senator from Virginia (Mr. WARNER), and the Senator from Mississippi (Mr. WICKER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Texas (Mr. CORNYN) would have voted ''yea.''

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

The result was announced—yeas 78, nays 11, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—78

Akaka	Barrasso	Bayh
Allard	Baucus	Bennett
Bingaman	Ensign	McConnell
Bond	Enzi	Murkowski
Brown	Feingold	Murray
Brownback	Graham	Nelson (FL)
Bunning	Grassley	Nelson (NE)
Burr	Gregg	Pryor
Byrd	Hagel	Reid
Cantwell	Harkin	Roberts
Carper	Hatch	Rockefeller
Casey	Hutchison	Salazar
Chambliss	Inhofe	Sanders
Coburn	Isakson	Sessions
Cochran	Johnson	Shelby
Coleman	Kerry	Smith
Collins	Klobuchar	Snowe
Conrad	Kohl	Specter
Corker	Kyl	Stevens
Craig	Leahy	Sununu
Crapo	Levin	Tester
DeMint	Lieberman	Thune
Dodd	Lincoln	Vitter
Dole	Lugar	Voinovich
Domenici	Martinez	Webb
Dorgan	McCaskill	Wyden

NAYS—11

Biden	Kennedy	Reed
Boxer	Lautenberg	Schumer
Durbin	Menendez	Whitehouse
Feinstein	Mikulski	

NOT VOTING—11

Alexander	Inouye	Stabenow
Cardin	Landrieu	Warner
Clinton	McCain	Wicker
Cornyn	Obama	

The amendment (No. 4070) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4073 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4073 offered by the Senator from South Carolina, Mr. DEMINT.

Mr. DORGAN. Mr. President, on behalf of the sponsor, I ask unanimous consent that amendment No. 4073 be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

Mr. DORGAN. Mr. President, with the withdrawal of the last amendment, there will be no further votes tonight. My understanding is the next vote starts at 10 tomorrow morning. The withdrawal of the second amendment on which we were going to have a recorded vote means there will be no further recorded votes necessary this evening.

Mr. REID. Mr. President, the only question is, I have not had a chance to confer with my distinguished Republican colleague, Senator MCCONNELL. We will make a decision as to what time we should start in the morning. There is a lot of committee business

going on, and I want to visit with Senator MCCONNELL first.

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

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

AMENDMENT NO. 3897

Mr. SMITH. Mr. President, I rise today to speak in favor of my amendment No. 3897. The amendment is cosponsored by Senators CANTWELL, MURRAY, CRAPO, and WYDEN. It clarifies section 301(F) of the Indian health bill regarding innovative approaches to funding Indian Health Services facilities construction.

The amendment would allow those innovative approaches to include an area distribution fund. Such a fund would allow the IHS to take a portion of facility construction dollars and cede that money to all 12 IHS areas throughout the country.

To be clear, my amendment neither creates an area distribution fund nor does it require the IHS to do so; rather, we are simply giving IHS the authority to do what is needed to bring equity to the system.

Currently, the vast majority of Federal funding for construction and modernization of tribal health care facilities goes to tribes in less than 10 States. In fact, my home State of Oregon, among many other States, has never received funds to build an Indian Health Services hospital. This is a function of the current flawed construction formula and of the regrettably low levels of funding for IHS, particularly its facilities construction budget.

These two wrongs, however, do not make a right. To correct this, it will take a two-part process: one part to increase funding for IHS and its construction budget, but this is an appropriations issue. Another is to amend the language in the Indian health bill to create some level of parity in the way IHS funds construction projects, and that is an authorizing issue.

As we debate today about the authorization of health care funding, I stand here to represent all the tribes that do not have access to funding to improve or build health care facilities because of an archaic formula. If tribes do not have access, no amount of appropriations will make a difference. We have to create the access, and my amendment would do just that. Again, it would authorize, not require, the IHS to use an area distribution fund.

The amendment would not rob one IHS area to pay for another. It simply allows other tribes across the Nation to also be eligible for funding. This area distribution fund is not the idea of a single Senator or a single region of the country. It is the product of years of work and compromise by the Indian Health Services and tribes after Congress recognized the need to create a more equitable facilities construction system.

This approach is supported by tribes and area health boards that cover IHS areas representing over 400 of the 562 federally recognized tribes that are based in 39 States. For Members and staff currently listening to my floor statement, allow me to read a list of the States where IHS areas want the type of flexibility provided by my amendment. To my colleagues in the Senate, if they have the privilege of representing Native Americans, I hope they will listen to find out if their State is mentioned because, right now, if they are mentioned, they are not getting any construction dollars. It is that simple.

The Nashville area, which serves 28 States, includes these States: Maine, Pennsylvania, Virginia, West Virginia, New Hampshire, Vermont, Maryland, Ohio, Massachusetts, Rhode Island, Connecticut, North Carolina, South Carolina, New York, New Jersey, Delaware, Kentucky, Indiana, Tennessee, Georgia, Florida, Alabama, Illinois, Missouri, Arkansas, Louisiana, Texas, and Mississippi. Then the Bemidji area which serves three States: Minnesota, Wisconsin, and Michigan; the Alaska-California areas which serve those States; the Oklahoma area which serves Oklahoma and Kansas; the Portland area which serves Oregon, Washington, and Idaho. Additionally, many tribes in Nevada also support this amendment.

The State of the Presiding Officer was mentioned, and so was mine. Mr. President, you are getting no construction dollars because of the way this is managed.

Last May, during an Indian Affairs Committee meeting, we were doing a markup on the Indian Health Care Improvement Act. I filed a much more prescriptive amendment which would have mandated funds for the area distribution fund. I withdrew that amendment in good faith because I wanted to work with the chairman and the vice chair and my other colleagues to find a win-win compromise on this issue. Since then tribes have put in hundreds of hours of work to find a compromise that could benefit all of Indian country. I have since scaled back my original amendment to reflect and recognize this compromise between the majority of the IHS areas.

Unfortunately, my efforts to reach a compromise before floor action were not successful. Yet I believe this issue is better left to the Indian Health Services than Members of Congress. That is why my amendment would simply give them the flexibility to work this out on their own in consultation with the tribes. Opposition to my amendment is based on the notion that IHS funds will remain at the slow drip they are now for the foreseeable future. I wish to change that. I want IHS facility funds to grow and to flow to every area that needs them. But then again, that is an appropriations issue and not an authorization issue, the business before us.

I have already written to the administration in support of increased IHS funding, and I intend to follow up on that request with the Appropriations Committee. I am hopeful that request will be met and that some of those funds would make their way to the 43 tribes in the Pacific Northwest or to the 25 tribes in the Nashville IHS area or the 40 tribes in the Oklahoma IHS area or the 109 tribes in the California IHS area, among others across the Nation. My amendment preserves that possibility for every State and every Native American in Indian Country.

On numerous occasions, Chairman DORGAN has invoked the words of Chief Joseph, who said: ''Good words do not last long unless they amount to something.'' Chief Joseph said those words after being chased by the U.S. Cavalry out of the Wallowa Valley of Oregon, through the States of Washington, Idaho, Wyoming, and Montana toward Canada. Chief Joseph also rightfully said: ''I am tired of talk that comes to nothing.''

I feel the same way. Eight years ago, Congress asked IHS and the tribes to revise the failed system for allocating facilities funding. The compromise they reached may amount to nothing without my amendment. That is why I feel so strongly about this issue. It is not just about one region or a group of regions, this amendment is about holding true to the government-to-government relationship the United States holds with all tribes.

I ask my fellow colleagues to support this amendment to ensure that all Native American Indians receive the health care they need—the health care they deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me very briefly say that I understand the point Senator SMITH is making. There is not enough money for the facilities in these programs. There is a $3 billion backlog for facilities. I am not able to support his amendment, however, and the difficulty is to create an area-wide distribution fund right this moment, at a time when we have a priority list and some tribes have been waiting on that priority list for a long period of time for the construction that was to begin in their area. I think that would be the wrong approach.

But I do think we ought to, in a more comprehensive way, on the Indian Affairs Committee, with the help of Senator SMITH and Senator MURKOWSKI and my colleagues, we ought to try to work through this to figure out how we do a better job of getting the funding for the construction that is necessary. I have been to so many facilities that are terrible facilities in terrible disrepair, and they are desperately in need of reform and change and new

construction, and we have to get about the business of doing it. But I regret I can't support this amendment. He is raising the right question, just providing the wrong solution, in my judgment.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, while we are waiting, I wish to make a few brief comments in reference to the amendment Senator SMITH has introduced regarding the area distribution fund.

Coming from the State of Alaska, I do support Senator SMITH's amendment, as we believe it will enable more Indian tribes to build the facilities and to address the inequities currently in the system. We recognize it has been under review, having been looked at for revision for years, but I think it is time to do something to create improvements to the system to get more facilities for the tribes.

Now, we recognize that funding is at the crux of this, but Senator SMITH's amendment does not mandate that the Secretary create this system. It says if funding is available, that opportunity exists. Furthermore—and I think this goes to the concern many have—that within the current priority system, if there is a change, somehow or other those who have made their way up to the top will somehow be displaced. We understand it doesn't impact the current health care facilities priority system. What we are attempting to do with this amendment is to enhance that system.

I appreciate Senator SMITH working with the committee, with the tribes, and with our colleagues on this issue. It is a very important issue, as Senator DORGAN has noted. So I do stand in support of Senator SMITH.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we were expecting to clear two unanimous consent requests, but I am told that, at the moment, the minority side has yet to clear them. If we are not able to clear them at the moment, perhaps we will be able to clear them first thing in the morning before we go to the votes that will be scheduled tomorrow.

I think we are at a point where we have about two or three votes remaining and then final passage tomorrow. And that should occur probably close to midday, which will be a pretty happy occasion for a lot of folks who have waited a long time for this legislation to pass the Senate.

I know a couple of my colleagues are waiting to do a colloquy, so if we are not yet cleared, I think we will try to clear both these unanimous consent requests tomorrow morning. Our colleagues, I believe, are not on this subject, so at this point I will defer and we will come back to this tomorrow morning.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to speak as in morning business and also to engage in a colloquy with my colleague from Oregon.

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

CHILDHOOD CANCER

Mr. REED. Mr. President, I initially wish to make a few comments, and then I will yield to my colleague from Oregon. Today, I rise to honor two young heroes and their families. Ben Haight of Rhode Island and Boey Byers of Oregon were two remarkable young people whose lives were cut short by cancer, but whose hopes were not.

Of course, when a child has cancer, it deeply affects the parents, siblings, friends, and extended family. In fact, a pediatric illness affects the entire family. Even those who don't bear the damage of the illness bear the pressures, the strains, and the frustrations over dealing with the serious illness of a child. These two young children were extraordinary. We mourn their loss and at the same time we celebrate their lives.

Ben Haight was only 4 years old when he was diagnosed with neuroblastoma. He fought valiantly, enduring chemotherapy, two bone marrow transplants, and total body radiation. Ben did not let cancer stop him from living life. I am told he would dictate his treatment schedules to his doctors: ''No treatments during science class; have to be out by 3 to go to Cub Scouts, baseball or soccer.''

Even at a young age, Ben knew a lot about what was important in life. He cared about others and wanted to help. He held a bandaid drive at school to donate colorful bandaids to the hospital, which used plain bandaids to save money. Ben knew that patients enjoyed picking out a ''cool'' bandaid and that this simple pleasure offered them a brief respite from the rigors of their disease.

Ben's cancer went into remission, but after 2 years it came back. The doctors gave him 3 months to live, but he was tough. He fought for 2 more years. Ben was 9 years old when he died.

I never had a chance to meet Ben, but I have had the honor of meeting his wonderful family. His family has turned the tragedy of losing their son into a message of hope for other families.

Just before Ben died, he and his family enjoyed a special activity together—swimming with dolphins. Now, the Haight family's mission is to do all they can to fight cancer and to provide one child a year with the opportunity to swim with dolphins.

I think there is a sort of symbolic link here between his family and these dolphins. His father was a career enlisted man in the U.S. Navy, a chief in our submarine service. Of course, submarines use the dolphins as the symbol of their service branch. This is a family who has served the Nation in uniform and who continues to serve the Nation by fighting hard for other families who are afflicted by childhood cancer.

Now, Boey Byers was, in her words, a warrior against cancer, and I was very saddened to learn she has recently passed way. A few months ago, I had the privilege of speaking with Boey over the phone. She was full of life and spirit and struck me as very polite, poised, and wise beyond her years. I wanted to thank Boey for all she was doing to try to help other kids with cancer. Her passion in life was to find a cure for her warrior friends, as she called them, so they didn't have to suffer anymore and so they could live out their dreams and contribute to this great country.

We must remember there are thousands of children like Ben and Boey across the country. Each year, there are about 9,500 new cases of pediatric cancer, the leading cause of death by disease among children in the United States. While the incidence of cancer in children is increasing, the causes are largely unknown.

The National Cancer Institute—the NCI—currently spends about $170 million a year on pediatric cancer research, but most of the money goes toward laboratory research and preclinical testing. While it is important to test treatments in a test tube, Petri dish, or on animals, it is equally important to test treatments on humans in clinical trials.

For example, a recent clinical trial found that for children with neuroblastoma, less intensive chemotherapy is as effective as more intensive and toxic chemotherapy.

In 2002, an NCI peer review group of scientists recommended about $50 million in funding for pediatric cancer clinical trials. That level was never funded, and since then it has been cut, despite biomedical inflation and the increasing incidence of childhood cancer. Unfortunately, declining funding has stopped promising clinical trials. Pediatric cancer researchers expect only flat funding for clinical trials this year.

We can do better. The Conquer Childhood Cancer Act invests $30 million a year to expand pediatric cancer research and develop pediatric cancer clinical investigators. The bill also creates a national childhood cancer registry to track pediatric cancer. Researchers would be able to contact patients within weeks, enroll them in research studies, and follow up with them over time. Similar registries are already in place in Europe. If Europe can do it, we can do it, and we should do it.

This bill awaits action by the full Senate. It recently reached a significant milestone, garnering its 51st cosponsor. So even before any vote, we know for sure a majority of the Senate supports the bill. It has broad bipartisan support, with 14 Republican cosponsors and the support of both the majority and minority leaders.

Regrettably, a small minority is blocking this bill, and I call on the Senate to carry out the will of the majority and pass the bill. It is my hope

that in doing so we will intensify our fight against childhood cancer, so that one day the hopes of Ben and Boey, and thousands of children like them, will be realized.

Mr. President, I yield now for the purpose of a colloquy with my colleague from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, first, I wish to commend my friend from Rhode Island for persistently and energetically prosecuting this cause, because having gotten to know Boey at home and visiting her in the hospital, I think all of us will understand it is hard to conceive of anything more tragic than seeing a young person's life claimed by cancer.

Senator REED has been educating the Senate on this issue of importance, of research of this disease. I got to know Boey, and that is why I am glad he referred to her as a warrior. I would just tell my colleagues that if Boey had been an elected official, she would have been the chair of the Warrior Caucus because this very young child really did not know how to rest in the effort to try to get this legislation passed and to help our youngsters.

When she was taken from us, she had battled cancer not once but twice. The first time, she had beaten her cancer into remission. She lost her second battle, but she simply never rested. The day that I saw her last in the hospital, what we spent our time on was Boey and I walking down the halls with Boey trying to cheer up the other youngsters who were at the hospital. She put aside her own pain and fear that cancer would claim her life because she wanted to be, as Senator REED has noted so eloquently, a warrior for all of the other children who have been suffering.

I am pleased to be out here with Senator REED. I think this is another example of the entire country coming together to try to stand up for these kids. As Senator REED has noted, when cancer strikes, it strikes a whole family. That was the certainly the case with Boey. Her loving parents, Rob and Rachel, her older brothers, Chris and Joe—all of us have continued to think about Boey and all she did to brighten our lives and particularly stand up for our children.

So for purposes of this evening, I simply wanted to ask my friend one question. This Senate can certainly have spirited debates about a lot of issues. Senators can have differences of opinion on a variety of questions, and we come from different parts of the land. The Senator from Rhode Island represents a State 3,000 miles from mine where Boey lives. But I am still troubled why the Senate cannot come together and pass this legislation. I think Senator REED has made the case and made it well. He has clearly reached out to colleagues on both sides of the aisle. Surely, there should be nothing partisan about legislation such as this that will be so meaningful to children and their families.

For purposes of this evening, I wanted to get a sense from my colleague of what else he felt we ought to be trying to do to pass this important legislation and get it on its way to the President.

Mr. REED. I thank the Senator. One of the things we are doing this evening is once again highlighting the critical importance of this legislation, the impact it would make in the lives of children and families across the country. And your voice is a strong voice for not only this legislation but for issues affecting health care and children in this country.

I think we are picking up speed, but we need the cooperation of virtually all of our colleagues, not to pass the bill—we have 51 votes—but to get it on the floor. That is not something unusual here in the Senate. But I think this is the type of legislation that should not be caught up in the kind of procedural rules that we all use.

I am going to try to reach out and explain personally what is at stake, how we have tried to make changes, how we have pursued a bipartisan approach. I hope we can be persuasive enough to get this legislation on the floor for a vote. I do not think the opposition, frankly, is the concept and the mechanisms we are talking about. Certainly it is not opposition to helping families and children who have cancer. I think it is caught up in other issues. We would like to disentangle those issues and focus on what we can for children who have cancer.

I think that is one of Boey's works.

Mr. WYDEN. One of her many, and you can see her enthusiasm literally popping out of the drawing. She was an incredibly passionate woman. You have stated it well. I know of no Members of the Senate who get up in the morning and say they want to be hostile to children who are suffering this way. I think a piece of legislation such as this gets lost in the clutter of the Senate calendar and the business of the Senate.

All of us have staffers who handle health legislation and staffers who are serving as legislative directors. I think for purposes of tonight, particularly given your eloquent remarks, I hope the phone will ring off the hook in your office tomorrow with Senators and staffers calling and making clear they want to know more about this legislation and hopefully be cosponsors so we can get it passed.

Mr. REED. I am encouraged also. It is incumbent upon supporters like myself and yourself to begin to reach out, which I think we are both committed to doing, and doing it personally to try to get through. I think my sense is a lot like yours. It is not an issue that people are objecting to; it is caught up in bigger issues. And sometimes we just have to step back and understand that the big issues will still be there and the points can still be made, but we can get this bill done.

I noticed the warriors in Boey's drawing at the White House. My hope is one day the President in the White House is going to sign this bill. She will be there, and Ben will be there in spirit because they are the warriors, and the young men and women who are helping us in our mission.

So that is my hope. I think we can do that. We are going to try. If it is because we have not been as explicit or as communicative as we should have been with all of our colleagues, that is something we will correct very quickly.

Mr. WYDEN. I will do everything I can to help. I think the Senator has said it well. In a sense, his work acknowledges something we all see every time we are home, and that is that health care has always been the biggest issue here at home.

The Senator from Rhode Island is someone I admire in so many areas, relating to international affairs, with great expertise, and obviously there are many pressing concerns around the world. But the reality is, here at home, if our loved ones and our families do not have their health, it is hard to do anything else. I know in the case of Boey and the wonderful family, Rob and Rachel and her brothers, they were consumed by this. They all threw everything they had into trying to be there to comfort Boey, to get her the treatment she needed. So we ought to do this for the kids, and we ought to do this for the families. There are a lot of other issues we will be tackling both in health care and around the Senate schedule. This is something we ought to do now.

Mr. REED. I agree. I think it is something we can do. The effort is to bring people together and move from 51 to 61 to 71 to 100. I think we can.

Mr. WYDEN. Well said.

Mr. REED. We have begun in earnest months ago, and we are picking up the pace. I thank the Senator for his wise and kind words.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask consent to speak for 10 minutes in support of the Vitter amendment. I believe there is a time agreement for 30 minutes on each side of the Vitter amendment.

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

Mr. BROWNBACK. Mr. President, if my colleagues need to interrupt, I would be happy to yield to them.

I yield to the Senator from North Dakota.

Mr. DORGAN. I ask unanimous consent that the vote sequence with respect to S. 1200 tomorrow be as follows: Vitter amendment No. 3896, Smith amendment No. 3897, DeMint amendment No. 4015, DeMint amendment 4066, and final passage of S. 1200; further, that the cloture motion with respect to S. 1200 be withdrawn, with no debate time in order except for 2 minutes prior to each vote; that after the first vote, vote time be limited to 10 minutes each; all other provisions of the previous order remaining in effect.

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

Mr. DORGAN. Mr. President, I further ask unanimous consent that on Tuesday, February 26, upon disposition of S. 1200, there be a period of morning business until 12:30 p.m., with Senators permitted to speak therein, with the time equally divided and controlled between the two leaders or their designees, with Senator FEINGOLD controlling 20 minutes of the majority time, if available; that at 2:30 p.m., there be 20 minutes of debate prior to a vote on the motion to invoke cloture on the motion to proceed to S. 2633, with the time divided and controlled between the leaders, with the majority leader controlling the final 10 minutes prior to the vote; that upon the use of that time, the Senate then vote on the motion to invoke cloture on the motion to proceed to S. 2633, with other provisions of the previous order remaining in effect.

My understanding is that this has been cleared on both sides.

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

Mr. DORGAN. Mr. President, let me do one small piece of business with the bill before the Senator from Kansas proceeds.

AMENDMENTS NOS. 4019, AS MODIFIED, AND 4021 TO AMENDMENT NO. 3899

Senator MURKOWSKI and I wish to have considered two unanimous consent requests that were originally to have been included in the previous unanimous consent by which we conducted business today. One is amendment No. 4021, and one is amendment No. 4019, as modified.

I send both amendments to the desk and ask that they be considered en bloc and agreed to.

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

The amendments (No. 4019, as modified, and 4021) were agreed to, as follows:

AMENDMENT NO. 4019, AS MODIFIED

On page 298, after line 25, insert the following:

"SEC. 71__. TESTIMONY BY SERVICE EMPLOYEES IN CASES OF RAPE AND SEXUAL ASSAULT.

''(a) APPROVAL BY DIRECTOR.—

''(1) IN GENERAL.—The Director shall approve or disapprove, in writing, any request or subpoena for a sexual assault nurse examiner employed by the Service to provide testimony in a deposition, trial, or other similar proceeding regarding information obtained in carrying out the official duties of the nurse examiner.

''(2) REQUIREMENT.—The Director shall approve a request or subpoena under paragraph (1) if the request or subpoena does not violate the policy of the Department to maintain strict impartiality with respect to private causes of action.

''(3) TREATMENT.—If the Director fails to approve or disapprove a request or subpoena by the date that is 30 days after the date of receipt of the request or subpoena, the request or subpoena shall be considered to be approved for purposes of this subsection.

''(b) POLICIES AND PROTOCOL.—The Director, in coordination with the Director of the Office on Violence Against Women of the Department of Justice, in consultation with Indian Tribes and Tribal Organizations, and in conference with Urban Indian Organizations, shall develop standardized sexual assault policies and protocol for the facilities of the Service.

AMENDMENT NO. 4021

(Purpose: To require a study of tribal justice systems)

On page 347, after line 24, add the following:

SEC. 104. GAO STUDY OF TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct, and submit to Congress a report describing the results of, a study of the tribal justice systems of Indian tribes located in the States of North Dakota and South Dakota.

(b) INCLUSIONS.—The study under subsection (a) shall include, with respect to the tribal system of each Indian tribe described in subsection (a) and the tribal justice system as a whole—

(1)(A) a description of how the tribal justice systems function, or are supposed to function; and

(B) a description of the components of the tribal justice systems, such as tribal trial courts, courts of appeal, applicable tribal law, judges, qualifications of judges, the selection and removal of judges, turnover of judges, the creation of precedent, the recording of precedent, the jurisdictional authority of the tribal court system, and the separation of powers between the tribal court system, the tribal council, and the head of the tribal government;

(2) a review of the origins of the tribal justice systems, such as the development of the systems pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq.) (commonly known as the ''Indian Reorganization Act''), which promoted tribal constitutions and addressed the tribal court system;

(3) an analysis of the weaknesses of the tribal justice systems, including the adequacy of law enforcement personnel and detention facilities, in particular in relation to crime rates; and

(4) an analysis of the measures that tribal officials suggest could be carried out to improve the tribal justice systems, including an analysis of how Federal law could improve and stabilize the tribal court system.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 3896

Mr. BROWNBACK. I rise to discuss the Vitter amendment to the Indian Health Care Improvement Act No. 3896. It is an important amendment. I am a cosponsor.

I want to give a bit of outline on this provision. This codified within the Indian Health Care Improvement Act a provision that is referred to as the Hyde amendment that has been public law for some 25 years. Congressman Henry Hyde, whom both the Presiding Officer and myself served with in the House of Representatives, who passed away last year, was a giant on the issue, bringing the issue of life to the Congress, to the country.

The so-called Hyde amendment prohibits taxpayer funding for abortions other than in case of rape, incest, and the life of the mother. This is a provision which has really not been contested for some period of the time because while we have a contentious debate about abortion in the United States, the level of the contention of the debate is much lower regarding taxpayer funding of abortion when it involves anything other than rape, incest, life of the mother. That has generally been agreed to in this body, that we should not use taxpayer money in those particular situations.

What the Vitter amendment does is take that particular provision and puts it in the Indian health care bill and says that we should not fund abortions through the Indian health care provisions or Indian health care facilities other than in cases of rape, incest, or the health of the mother. Federal taxpayer dollars should not be used. Most people agree. They may be pro-choice, they may be pro-life, but they are saying still—most people in this country do not want their Federal taxpayer dollars used for this purpose. And what we are doing in this particular provision is codifying within the Indian Health Care Improvement Act this provision. The Hyde amendment is normally put in the Labor-HHS appropriations bill. It has typically not been put within the Interior appropriations bill where Indian health care is normally funded.

Indian health care legislation being an authorizing piece of legislation, I think it is important that we codify this particular provision. This will be a key vote. It will be a key vote on people's views toward taxpayer funding of these types of abortions other than in cases of rape, incest and the life of the mother. I would hope that most of our colleagues would say, even if they are pro-choice: Well, I do not think that is something we should be doing with Federal taxpayer dollars. I would hope a number of people would look and say: This is such a contentious debate and so many people in the country do not agree with abortion and particularly do not want their dollars, their taxpayer dollars used to fund selective abortions, that people say: Okay, you are right, an individual may be pro-choice, but I do not think we ought to do that in this particular situation, and would then vote for the Vitter amendment.

It is very carefully drafted. It is narrowly cast. It is a policy issue where there has been agreement between the House, the Senate, and the President. There has been agreement on the Hyde amendment provision for over 20 years, particularly cast on this contentious issue.

That is why I hope colleagues will look at this carefully and say: I have supported Hyde amendment-type language in the past. This makes sense. It is a commonsense provision.

I hope my colleagues will support the Vitter amendment because of this particular provision and will agree that it makes sense to them as well.

Overall, it is a contentious issue, but this particular provision should not be. I urge my colleagues to look at it carefully and see if they could not support the Vitter amendment. I strongly urge its passage.

I ask unanimous consent that any time I did not use be kept on the Vitter amendment.

I yield the floor and suggest the absence of a quorum.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THUNE. 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. THUNE. Mr. President, I am pleased we are making headway and are approaching finality and conclusion in regard to the Indian Health Care Improvement Act. I give great credit to Senator DORGAN from North Dakota and Senator MURKOWSKI from Alaska for their persistence in working with the leaders on both sides to get this legislation moved and ultimately adopted.

It has been a long time since we have had the Indian Health Care Improvement Act reauthorized. I think it goes back to about 2001. So this is a long overdue step toward attempting to improve health care throughout Indian Country, and I applaud the work that has been done. I hope tomorrow we can dispose of the final amendments that remain and get to a final vote on this legislation so we can begin to address what are some very serious needs regarding Indian Country and health care.

I wish to specifically acknowledge a couple of amendments—one that is still pending and one that has been adopted.

AMENDMENT NO. 3896

First, Mr. President, I wish to speak to the Vitter amendment, which is going to be voted on tomorrow. If adopted, this amendment would codify longstanding policy against the funding of abortions with Federal Indian Health Service funds.

Senator VITTER's amendment would permanently apply to the IHS the policy set forth by the Hyde amendment, which prohibits the Federal funding of abortions and has been national policy since 1976. For over 30 years, Democratic and Republican administrations, the U.S. Supreme Court, and bipartisan Congresses have all upheld and affirmed this essential policy. In addition to maintaining this legislative precedent, amendment No. 3896 includes important exceptions to save the life of the mother or in cases of rape or incest.

Now, some of my colleagues may ask why statutory codification of this policy is necessary. Let me assure them it is necessary to ensure this decades-long legislative precedent does not fall needlessly through procedural and political cracks.

Without this amendment, there is no true assurance that Federal IHS funds will not be used to pay for abortions on demand in the future. As everyone in this Chamber knows, the language of future HHS appropriations bills depends upon a host of political and legislative contingencies which can shift suddenly and unpredictably.

This amendment would extend and codify good policy—policy that protects the vulnerable rather than restricting rights. The Federal Register contains scores of national policies that are in place to protect women, young children, and citizens of minority status from harm.

Abortion is a practice that can harm women physically, emotionally, and spiritually. Statistics clearly demonstrate that abortion in this country falls disproportionately on minority populations, including Native Americans.

By supporting this amendment, we affirm life. As a nation we have come a long way in protecting the unborn since the Supreme Court's decision in Roe v. Wade. However, we still have a long way to go in the fight to protect life in this country. I believe there is an essential human dignity attached to all persons, including the unborn, and I will continue working with my colleagues in the Congress to promote a culture of life in this Nation.

As a cosponsor of this amendment, I offer my strong support of amendment No. 3896, and I urge my colleagues to support it.

I hope when the vote comes up tomorrow, we will have a good, strong bipartisan vote in support of this amendment.

Mr. President, I see the majority leader has come on the floor. I yield to him at this time. I assume he has some business to dispose of.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I very much thank my distinguished friend from the State of South Dakota who has, certainly, intimate knowledge of Native Americans. His State, I think, has one of the largest reservations in the country and one of the poorest all at the same time.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for not more than 10 minutes each.

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

BLACK HISTORY MONTH

Mr. DURBIN. Mr. President, I rise today in recognition and support of one of the most important months of the year that should be celebrated year round: Black History Month.

Dr. Carter G. Woodson, a prominent African-American historian, author, and journalist, founded ''Negro History Week'' in 1926 to establish a sense of pride in African Americans who had been ignored or misrepresented in traditional American History lessons. ''Negro History Week'' later evolved into Black History Month, a celebration of the people, history, culture, and contributions of persons with African heritage.

In part because of Black History Month, many are familiar with prominent African Americans who have changed the course of history: Martin Luther King, Jr., and Rosa Parks were at the forefront of the civil rights movement, Shirley Chisholm was the first African-American woman elected to Congress, and Jackie Robinson was the first African American to play major league baseball. But let's not overlook people such as the Golden Thirteen, the first African Americans to receive officer's training by the U.S. Navy.

At the Great Lakes Naval Training Station in my home State of Illinois, these young men worked and studied together for the comprehensive exam that would allow them entry into Officer Candidate School. Not only did they pass the exam and go on to become commissioned officers in the Navy, they earned the highest grades ever recorded in Navy history. In fact, their record has yet to be broken. Though they were often denied the privilege and respect afforded White naval officers, they served with distinction in World War II and knocked down the walls of Jim Crow in the process.

Illinois, in fact, has produced some of the greatest contributors to Black history, including jazz musician Miles Davis, Olympic track and field runner Jackie Joyner Kersee, famed composer Quincy Jones, and countless others. Illinois also has the unique distinction of electing two of the five African Americans who have served in the U.S. Senate: our very own Senator BARACK OBAMA and former Senator Carol Moseley-Braun.

During the past 400 years, against all odds and in spite of numerous roadblocks, African Americans have woven themselves into the fabric of this country. Through academics, government, music, art, food, sports, America would not be what she is without the contributions of her African-American population.

HONORING OUR ARMED FORCES

SPECIALIST CHAD D. GROEPPER

Mr. GRASSLEY. Mr. President, today I pay tribute to an American hero who was killed on February 17, 2008, in Diyala Province, Iraq, while supporting Operation Iraqi Freedom. His bravery and selflessness will not be forgotten. I extend my thoughts and prayers to his wife Stephanie, his daughter Clarissa, and all his family and friends.

Chad Groepper was raised in Kingsley, IA, and graduated from Kingsley-Pierson Community High School in 2004. He enlisted shortly after his graduation. Chad was known for his ability to put smiles on faces, make people laugh, and for being involved with outside sports such as dirt biking and