

The focus is more on making political points than in amending the bill.

That is what they said. And it continues:

GOP anticipates a struggle over which amendments are debated and eventually fingerpointing over blame for demise of the bill. The bottom line is that the GOP very much wants to engage in it for a prolonged period, and then make it as difficult as possible to move off the bill.

The focus is much more on making political points than on amending the bill.

The American people aren't confused, Mr. President.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MEDICARE IMPROVEMENT FOR PATIENTS AND PROVIDERS ACT OF 2008—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3101, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to S. 3101, a bill to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I have come to speak on the Medicare bill, but I must make a few remarks in relation to the debate between the majority and the minority leaders. The bottom line is very simple, and that is they haven't said let's fight over what amendments nor have they offered amendments. They have said that we will not even proceed to the bill.

So when the majority leader, Senator REID, says it is Orwellian, of course it is. In every instance when the minority has come and said they will do amendments related to the specifics of the issue at hand, the majority leader has been more than accommodating, ranking even some on our side. But they don't want to do that.

Senator REID read the memo. They want to slow the bill down with extraneous amendments that have nothing to do with energy because they do not want to allow a vote, even on ANWR.

Now, my friend from Kentucky talks about ANWR as the answer. Even the most optimistic experts say it will be 7 years before we get a drop of that oil. So the minority leader and the minority are saying wait 7 years and maybe we will get oil prices down. We don't want to wait that long. In 7 years, we could have an energy policy that weans us away in part from fossil fuels in a serious and significant way, like what is being done in Europe and other

places. They do not want to do that because big oil dominates. They do not want to do that because their base says drill in ANWR, and the people say no.

This idea that we don't want any production, the minority leader is just patently incorrect. Democrats, including myself, helped lead the charge and voted to increase production in the east gulf. That is the place where there is the most available oil and gas near refineries. And it wouldn't take 7 years the way starting a whole new venture in Alaska would. We voted for it under Republican leadership, when the Republicans led. So we are willing to increase production, but we do believe we are not going to drill our way out of this problem.

The majority leader is exactly right. The actions of the minority leader say: Don't even debate it. Then he says they want to debate it. Well, if you want to debate it, don't block the motion to proceed. And I am certain—though I haven't talked to the majority leader about this, but I will, and I know from his past actions—if they have a series of amendments that are related to energy, they will be entertained. But if they want to debate George Bush's tax cuts or the estate tax, well, the majority leader has a perfect right to say, don't do it.

So, Mr. President, again, this week in the Senate, Republicans are blocking lower energy costs. They are the party of no—no, no, no. They are the party of no on global warming, they are the party of no on lower energy costs, they are the party of no on tax help for solar and wind, and they are the party of no on preventing the oil companies from just doing everything they want. And as the majority leader said, the status quo is not what America wants, but the status quo is exactly what the minority, the Republicans, are standing for.

I said it yesterday, and I will say it again—I said in the DSCC that I care more about the substance. I would much rather we move forward. But as head of the DSCC, the minority is filibustering themselves right out of their seats. When three-quarters of Americans demand dramatic change, and the minority says no change, that is not a formula for political success. You don't have to be a political genius to know it.

So I would say to the rank-and-file members on the other side, I don't understand the logic, I don't understand the thinking, but you are sure not helping yourself or helping your country.

Now, Mr. President, I would like to talk about Medicare for a minute—that is the bill we are on—and I rise to speak in strong support of the Medicare Improvement for Patients and Providers Act of 2008. I want to congratulate our leader on the Finance Committee, Chairman Max Baucus, for introducing this much needed legislation.

When Lyndon Johnson signed Medicare into law in 1965, he promised it

would transform the lives of America's senior citizens, and he said this:

No longer will older Americans be denied the healing miracle of modern medicine. No longer will illness crush and destroy the savings that they have so carefully put away over a lifetime so that they might enjoy dignity in their later years.

No one could have said it better, and yet 40 years later we are at a critical moment. Do we make much needed improvements to the program to allow it to fulfill its promise to America's seniors or do we ignore this challenge?

We have worked hard in the Finance Committee to put together fair and reasonable legislation that is supported by all physicians groups and millions of beneficiaries. We have compromised. I don't believe Medicare Advantage should come out of medical education. It affects my State, the majority of it will, and I am still willing to sort of suck it in and say, OK. But some on the other side are saying no, it has to be all their way. We know that fee for service in Medicare Advantage is far more lucrative and far more spread around the country. Yet we don't have very much of that in here to help pay for the other necessary increases. But it is a compromise bill. It is a bipartisan bill with broad support on the Finance Committee, and I urge all Members to vote for cloture today so we can provide help to millions of America's seniors and the hard-working health care providers who treat them.

We have to pass this bill to avoid catastrophic cuts to doctors. We know these physicians face a 10-percent cut. To those who say, well, they are doctors, they can afford it, the trouble is, if we do this cut, lots of doctors don't take Medicare, and our poor senior citizens are left in the lurch. When we cut resources to doctors, patients lose, in this instance. So we need to put aside politics and do the right thing for our seniors and pass this bill.

Some Members seem to think that doing more for low-income seniors—those Americans who are trying to make ends meet and are deciding between filling their car's tank with \$4 gas and paying for a doctor's visit—is wrong. Opponents of this measure say now is not the time to improve Medicare. Well, I say now is exactly the time. We need to cut costs where we can and enhance the program where it is needed.

Our constituents are waiting for action. In my State of New York, the AARP dropped off 20,000 petitions in three wheelbarrows at my office in Albany. These 20,000 petitions were from New Yorkers asking Congress to pass this bill, to pass S. 3101, because it helps seniors on fixed incomes, establishes an e-prescribing requirement, and helps limit premium increases.

We are particularly pleased the bill emphasizes preventive health care and expands coverage for key screenings, which can catch problems before they become more serious, and many other important measures.

In addition, the bill stops the cuts to physicians for 18 months and provides a 1.1-percent update for 2009.

The Medical Society of New York and medical societies throughout America are in favor. I have spoken to the head of the AMA, who is Dr. Nancy Nielsen from Buffalo, NY. She is the incoming President of the AMA. She has been tirelessly working, and I want to give her a shout-out of thanks here on the floor of the Senate.

I am particularly pleased that this bill provides increased payments for our ambulance providers. We put in a bill to do this; it got 25 bipartisan cosponsors. GAO found that ambulance providers are reimbursed on average 6 percent below their costs for providing services to Medicare patients. This is unacceptable. It means they cut back on the lifesaving equipment needed in the ambulance. We all know, for things like stroke and heart attack, having an up-to-date, modern ambulance with the most lifesaving equipment is often the difference between life and death, so this increase will actually save lives.

It also, unlike the other alternative, ensures that pharmacists dispensing prescriptions are receiving payments on time. Two thousand independent pharmacies in New York—and many more thousands around the country—are counting on this important change to keep them in the black. That is in the bill. You cannot ask pharmacies, small businesspeople, to just give a line of credit to the Federal Government. That doesn't make much sense.

This is a good bill. I urge we move forward and get the 60 votes. I hope we will not have another filibuster, No. 76. Let's hope and pray that doesn't happen so we can help America's seniors and continue to modernize Medicare and move this bill forward.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHUMER. I ask unanimous consent that during the times when we are in a quorum call, the time be equally divided between the minority and the majority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHUMER. Now I again suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I ask unanimous consent that following my remarks, the remaining Republican time be allocated to the following list for up to 15 minutes each, with Senator GRASSLEY controlling the remaining time: Senators ENZI, CHAMBLISS, STEVENS, HATCH, CORNYN, and COLEMAN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 3119 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

FUEL PRICES

Mr. ENZI. Mr. President, over the past few weeks I have had the opportunity to come to the Senate floor to speak on a No. 1 issue I am hearing about as I travel around Wyoming, and that is the high price of gasoline and diesel fuel. I want to continue to address that issue today. I listened to the debate on S. 3044, the so-called Consumer-First Energy Act. It might as well be called the No Energy Act because the bill does nothing to improve our Nation's energy situation and will actually do damage to it. One of the targets of S. 3044 is energy speculators. Their role in the high price of energy has been brought up time and time again, and my colleagues in the majority have been especially vigilant in their desire to rein in this group as if they were the big bad wolf.

If you listen to their arguments, they are persuasive. Unfortunately, they don't tell the whole truth. An editorial I recently read from the Wall Street Journal pointed out the flaws in their argument.

The article stated:

The first refuge of a politician panicked by rising prices is always to blame "speculators." So right on time for this election season Congress has decided to do something about rising oil prices by shooting the messenger known as the energy futures market. Apparently this is easier than offending the Sierra Club by voting for more domestic energy supply. Futures markets are not some shadowy, dangerous force but are essentially a price discovery mechanism. They allow commodity producers and consumers to lock in the future price of goods, helping to hedge against future price movements. In the case of oil prices, they are about supply and demand and the future rate of inflation. Democrats now argue that these futures markets are generating the wrong prices for oil and other commodities.

And who are these "speculators" driving up the prices? The futures market operator Intercontinental Exchange says that an increasing share of customers are not financial houses but are commercial firms that need to manage oil-price risks—[that means] the refiners, the airlines, and other major energy consumers. Another term for these [energy] "speculators" would be "American business."

The article continues:

If Democrats won't believe futures traders, maybe they'll heed their biggest political funder. When . . . hedge fund billionaire

George Soros testified before Congress on this issue, he noted, "Regulations may have unintended adverse consequences. For instance, they may push investors further into unregulated markets which are less transparent and offer less protection."

The article concludes:

Democrats will find that moving jobs to Dubai from New York and Chicago will not end commodity inflation that they themselves have helped to create.

I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the Wall Street Journal, June 10, 2008]

DUBAI'S FAVORITE SENATORS

The first refuge of a politician panicked by rising prices is always to blame "speculators." So right on time for this election season, Congress has decided to do something about rising oil prices by shooting the messenger known as the energy futures market. Apparently this is easier than offending the Sierra Club by voting for more domestic energy supply.

Futures markets aren't some shadowy dangerous force, but are essentially a price discovery mechanism. They allow commodity producers and consumers to lock in the future price of goods, helping to hedge against future price movements. In the case of oil prices, they are a bet about supply and demand and the future rate of inflation. Democrats nonetheless now argue that these futures markets are generating the wrong prices for oil and other commodities.

And who are these "speculators" driving up prices? The futures market operator Intercontinental Exchange says that an increasing share of its customers are not financial houses but commercial firms that need to manage oil-price risks—refiners, airlines, and other major energy consumers. Another term for these "speculators" would be "American business."

Not ironically, the leaders of Capitol Hill's shoot-the-messenger caucus are among those most culpable for the lack of domestic oil supplies. Senator Maria Cantwell (D., Wash.) has been threatening to hold up appointments to the Commodity Futures Trading Commission until the CFTC increases regulation of oil trading. In the best tradition of bureaucratic self-protection, the CFTC's acting chief Walter Lukken has agreed to investigate.

Ms. Cantwell's recent press release on "outrageous energy prices" didn't mention her own contributions to the problem. According to the Almanac of American Politics, she "successfully worked the phones" in 2005 to round up enough colleagues to block drilling in the Alaskan wilderness. Ms. Cantwell has also backed a slew of mandates and subsidies that have helped to raise food prices by diverting corn and other crops to a fuel. She even claims to have helped create the biofuels industry in her state.

Her counterpart in the House is Michigan's Bart Stupak, who claims special credit for a permanent ban on drilling in the Great Lakes and has also cast votes against exploration in Alaska and off the California coast. With \$4 gasoline, this is a man in need of political cover as Michiganders head into the summer driving season. A spokesman says Mr. Stupak is hoping to roll out a new bill by the end of this week to require "additional reporting and oversight" in the oil futures markets.

Then there's New York Senator Chuck Schumer, another staunch opponent of new domestic oil supplies. Mr. Schumer has

egged on the Federal Reserve's rate-cutting binge that has contributed so much to the oil price spike. But, with impeccable political timing, he now suspects "price manipulation by speculators" is the real cause of rising gas prices.

Mr. Schumer's answer is the "Consumer-First Energy Act," due for a cloture vote in the Senate today. Bundled with a windfall profits tax on oil companies, the plan also includes an increase in margin requirements for those who wish to trade oil futures. This would of course make it more expensive to trade in U.S. futures markets, which in a world of computerized, instantaneous trading means that those trades would merely move to markets overseas. As luck would have it, the Dubai Mercantile Exchange celebrated its first birthday last week with the launch of two new oil futures contracts that compete with those offered by American exchanges.

Leave aside the question of whether Mr. Schumer believes that the Dubai exchange, which is majority-owned by Middle Eastern governments, will offer more consumer protection than America's shareholder-owned exchanges. This is the same Chuck Schumer who warned in 2007 that heavy regulation threatens New York's preeminence in global finance. Along with Mayor Michael Bloomberg and former Governor Eliot Spitzer, Mr. Schumer introduced a long report on the threats facing New York with a short note that specifically mentioned Dubai as an increasingly formidable competitor. That of course was not an election year.

If Democrats won't believe futures traders, maybe they'll heed their biggest political funder. When Senator Cantwell invited hedge-fund billionaire George Soros to testify last week, she probably didn't expect the backer of left-wing causes to deviate from her market-manipulation narrative. But among other things, Mr. Soros noted that "Regulations may have unintended, adverse consequences. For instance, they may push investors further into unregulated markets which are less transparent and offer less protection."

Democrats will find that moving jobs to Dubai from New York and Chicago will not end the commodity inflation that they themselves have helped to create.

Mr. ENZI. Do we need an open and transparent market? Yes. Is there more that could be done? Probably. Which is why the Commodity Futures Trading Commission announced, on June 10, that it was forming an interagency task force to evaluate developments in the commodity markets. Rather than sitting here in the Senate Chamber spending our time criticizing commodities traders, we should be working together to pass legislation that we can agree on to improve our Nation's energy situation. The problem we face is a problem of supply and demand, less American-made energy and more demand for that energy. That is the problem that Congress should be addressing. That is what those in control of both Houses of Congress don't seem to understand at this stage, even though 2 years ago they complained about the price of gasoline and promised they would bring the price down.

The continued rise of gas prices is going to put an end to this dog-and-pony show eventually. Unfortunately, we are not at that point yet where the majority will seriously deal with this issue. The bills we are debating will do

nothing to improve our Nation's energy situation. The substitute to the Lieberman-Warner Climate Security Act would have cost us money, at a time when we are paying record energy prices. The so-called Consumer-First Energy Act would lead to less investment in energy; therefore, less supply and, therefore, higher prices for consumers. As bad as these bills are, the process by which they get here is even worse. They don't go through committee. They won't be signed by President Bush, and yet we still waste the time of the Senate talking about them, as if they will be made law and they will improve the Nation's energy situation. That is not the case. It is also not how we do things around here.

I have heard complaints that Republicans are stopping progress on important legislation. I have heard complaints that the majority is unable to legislate. "Unwilling" would be a better term. We are paying record prices at the pump. Those record prices are connected to specific actions or inactions by those in control of Congress in the recent past and years ago.

Recently, on May 13, the Democratic majority defeated the American Energy Production Act by a vote of 56 to 42. The measure would have expanded domestic oil production as well as opening the potential of oil shale and coal-to-fuel technology. In 1996, President Clinton vetoed a bill that would have enabled us to get 1 million barrels of American oil a day. That is what we are demanding that Saudi Arabia give us. I remember in 1973, when we made some demands on Saudi Arabia, and they cut us off entirely. Some of us are old enough to remember the gas lines and the shortages we had then. But he vetoed a bill that would have enabled us to get a million barrels of American oil a day from the Arctic National Wildlife Refuge, an area about a sixth the size of Dulles Airport. The entire refuge is considerably bigger, but we are talking about drilling on a very small portion of it.

On May 22, House Democrats voted down a measure sponsored by Congressman MIKE CONAWAY that would have expanded the use of coal to fuel, oil shale, and tar sands, as well as expediting the permitting process for new refineries on three closed military bases. In December, Democratic members of the Senate Environment and Public Works Committee debated a proposal to ensure development of nuclear energy to meet emission goals. That is this year.

The list goes on and on, as does the majority's theatrics of inaction. When they got the majority a year and a half ago, the Speaker promised lower gasoline prices. How have they delivered? Their answer for our need to produce more American energy is to always say no, and their solution is always, let's tax the oil industry, a plan we know won't work because, under President Carter, we tried that, and we drove a lot of business overseas, which is where

we have to ship our money unless we can get oil production in the United States. A lot of people don't realize—maybe they do—that Saudi Arabia is the biggest producer and that the Soviet Union is the second largest producer. What they don't realize is that the United States is the third largest producer, and we could solve a lot of our own problems if we were to do some of the things suggested here.

Like most of my colleagues, I support developing more alternative energy. I support the use of wind energy and the development of better solar energy technologies. Wyoming is the perfect place for a lot of that development to happen. We have, most days, the sunshine, and we do get some wind. While we need to develop those technologies for the long term, we need all the energy we can get today. We need more American oil from American soil, we need more domestic natural gas, we need more nuclear energy, and we definitely need more clean coal. More taxes and lawsuits are not going to get us there.

I emphasize again that I have a lot of faith in American ingenuity. For the long term, there is some research that could be done that would work with coal to make it cleaner, greener, and meet the needs, because that is the biggest resource we have. We have more Btus in coal than Saudi Arabia has in oil, and we have that in one county in Wyoming. But for the shorter term, yes, we do need to conserve, and, yes, we need alternative energy sources. We cannot abandon the sources of energy we have right now.

I am going to end with a story. A while ago, I had to go out to California for a meeting. I was supposed to speak in the evening, and my plane got into California at rush hour. I thought: I am probably not going to be able to make this speech. I rented a car. My wife was with me. I found out they have these high-occupancy vehicle lanes. Well, there was one lane for high-occupancy vehicles. I have never seen so many lanes. I am pretty sure there were six more lanes besides the one lane for high-occupancy vehicles. I made that speech on time. I zinged right through that high-occupancy-vehicle lane because it only required two people in the car—only two. Out here, there are a lot that require three, but in California it was only two. Now, what about the other six lanes of traffic? Stalled out. Six lanes—cars stopped dead, idling their motors, putting carbon in the air, one person to a car. Now, that is a State with 34 million people and huge concentrations of people. So I would like to encourage California to carpool a little bit.

Now, I would encourage the people in Wyoming to carpool too, but I spend a lot of time trying to teach the East and the far West about the Midwest, and most of the people we have are driving because they have to and because they are going to a single site where they are the only worker. And

we only have half a million people, to begin with. But a lot of trucks come through our State that are delivering produce and other things to the rest of the Nation, and that is important to have happen.

But when people talk about gasoline and trying to reduce its use, they have to remember that a lot of that is to provide services and products that we in the United States have grown very accustomed to. We do not rely on everything coming from our own county; we rely on it coming from not only the rest of the United States but the rest of the world.

The only way we are going to get out of this dilemma is to work on the short term, which is to get people to conserve; work on the medium term, which is to do some things with alternative energy but to put some research into the future so we can handle the kinds of things we need to provide for the energy we need for this country. Increasing the supply is the only thing that is going to bring down the price.

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

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

The bill clerk proceeded to call the roll.

Mr. CHAMBLISS. 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. CHAMBLISS. Mr. President, I rise today to talk about how Congress can take action to provide relief to American families who are really feeling the pain at the pump due to high gas prices.

Obviously, this is a very complex issue and requires a multipronged strategy to respond. But the base price of gasoline reflects the principles of supply and demand. Asian economies continue to boom, creating soaring demand for oil. At the same time, many oil-producing regions are curbing output. These factors can create a perfect storm that leads to historic high prices for the price of crude oil and the resulting prices at the pump we see today.

I believe we must find both short-term and long-term solutions to provide energy security for our Nation and give relief to the unprecedented gas prices we are experiencing today.

Republicans and Democrats recently came together and passed a piece of legislation, with my vote, to suspend the filling of the Strategic Petroleum Reserve until the end of the year. This was an attempt to provide a short-term solution to high gas prices at the pump by dealing with the supply side of the issue. It is a bill that passed with strong bipartisan support.

The Strategic Petroleum Reserve has the capacity of 727 million barrels of oil and currently holds just over 700 million barrels. The United States had been filling this Reserve to the tune of about 70,000 barrels per day.

This was the right thing to do for several reasons: first, because we

should not be buying the most expensive oil ever and simply putting it in the ground; secondly, because it will leave a little more oil on the market, which will hopefully alleviate prices somewhat; and third, because it shows that Congress recognizes that increasing the supply of oil in the market can have an impact on the price of oil. Finally, it sends a message to energy markets that Congress can take action and thereby reduce speculation, which certainly has been a participant in the rising price of oil.

Congress also acted in a bipartisan manner to address a component of the long-term solution to energy security by enacting the Energy Independence and Security Act in December of last year. This legislation, again with my support, was an attempt to provide a long-term solution to high gas prices by dealing with the demand side of the issue.

This legislation contains an aggressive new renewable fuels standard that requires fuel producers to include a certain amount of alternative fuel in their product. I am excited about the significant opportunity this provides for Georgia, which has not been a large producer of biofuels in the past, to participate in the development of renewable fuel sources. The renewable fuel standard requires 36 billion gallons of renewable fuels in American motor fuels by 2022. I think it was the right thing to do to require 21 billion of the 36 billion gallons of renewable fuels to come from advanced biofuels. This means instead of corn-based ethanol, we will be making fuels from cellulose such as wood chips, peanut hulls, and switchgrass.

This emphasis on biofuels is consistent with legislation I introduced last year to increase the amount of advanced biofuels and gasoline. This is also very consistent with the farm bill that passed this body. In the energy title in that farm bill, of which I was particularly excited about and remain excited, what we did was to induce the manufacture of additional amounts of ethanol in this country. But the production of ethanol from corn has had unintended consequences—we have seen the price of food products increase. It hasn't just been corn-based food products as a result of the high demand for corn. We have seen more corn planted, which means the demand for wheat, soybeans, peanuts, as well as other commodities, has increased and driven up the price because farmers are simply planting more corn due to the high price. It looks as if the demand is going to be there for a long time to come.

So in this farm bill, what we did was to incentivize the production of ethanol not from corn but from cellulosic-based products, whether it is peanut hulls, switchgrass, pine trees, or who knows. In my part of the world, we have a vine culled kudzu that grows rampant across Georgia, and there is not much use for it. One of these days

we may even see a biodegradable product, such as kudzu, become available for the manufacture of ethanol. It is a serious problem, and in the farm bill we sought to address the additional production of ethanol through cellulosic-based products.

I wish to read a couple pieces of correspondence I have received from constituents of mine which further emphasizes the intensity of this problem, the seriousness of this problem, and the fact that all of a sudden families are simply not able to incorporate into their budget this huge increase in gasoline prices in such a short period of time.

Deanna Payne of Winder, GA, writes as follows:

Senator CHAMBLISS: Due to the high cost of gas, I am having to cut down on groceries and visit local food banks. My husband makes the same amount of money he did in 2007, but we just can't make ends meet. Gas prices have doubled the cost of some of the grocery items I used to purchase. I just can't do it. Please give us some relief! This is ridiculous! Americans are going hungry and losing everything!

Another constituent from Augusta writes:

I am very concerned about rising gas prices and what if anything Congress plans to do to help Americans. I cannot afford to fill up my vehicle at these rates which today are approaching \$4. My husband is a platoon sergeant training troops at Fort Gordon. I work at the Medical College of Georgia. We have a combined income of over \$70,000. It is becoming harder and harder to put any money aside. Not only is the cost of gas rising, but the cost to heat and cool our home and the cost of groceries are all making it difficult to make ends meet. My husband re-enlisted in September 2007. We as a family came to the decision that even during this time of war, the Army was the only guarantee of a paycheck and health care coverage for the next few years. I hope that Congress is putting aside its partisan issues and working together to help all Americans, as I feel our Nation will soon fall apart at the rate it is going now.

A constituent from Montrose, GA, writes:

Please work to help us with the prices of gas and its effects on every household's budget. We should be drilling anywhere and everywhere to alleviate this current situation. The brightest in this country need to be assembled and given the resources to come up with alternative energy sources. We need to have the Nation go to a 4-day work week starting with government agencies leading the way by example. These problems have been gradually getting worse all along with nothing getting done. Steps better be taken soon before this country gets into a position that it can't recover from. Thank you.

From Douglasville, GA:

I am a single mother of 3. I had to take \$20 out of my grocery money to pay for gas just to get to work. That is the only place I drive. The kids and I walk to our local stores if needed. This is not the American Dream, or the way we are supposed to live in the great United States! I can't afford a new car that is better on gas. I already drive a 4 cylinder. SOMETHING'S GOT TO GIVE!

I am sure the Presiding Officer has dozens and dozens of these same types of letters in his office, and it is a further indication of the fact that Americans truly are hurting at the gas pump.

It is imperative we provide the leadership in Washington that reacts from a short-term standpoint but, more importantly, looks to the long-term solution to this problem. It is going to be very difficult to reduce gas prices in this short term, but I think, without question, if we implement today long-term policies, we will see an immediate reaction by oil-producing countries and we will see an immediate effect on gas prices and I think, without question, we will see a lowering of those gas prices, to a certain extent.

But the important matter is we have to address the issue. As I look around this body and see the rhetoric going back and forth on both sides of the aisle, I don't see solutions coming out. I see blame being placed. I see political statements being made. I think it is time we put those political statements aside, we put partisan politics aside, and we, sure enough, try to reach an accord for some commonsense solutions to a problem that is having a direct effect on constituents of Republicans and constituents of Democrats alike. It is time we make sure we address this problem for the long term, incorporate the multifaceted issues that are involved, and that we come together and make sure we are doing the work the people sent us to do. I don't see that happening today, and that is what I am hearing from my constituents back home.

So I hope, as we move forward over the next several days before we adjourn for the Fourth of July week break, when we are all going to be back home and we are going to continue to hear these issues raised, we can say: Here is what we are prepared to do in a bipartisan way to solve this problem and to make sure we don't continue to be dependent on foreign petroleum imports, to the tune of 62 percent of our needs; that we are taking action to address that imbalance, and we are taking action to implement measures to ensure that alternative fuels are developed, that the research is put in place to provide those alternative fuels at the gas pump, which will help drive the price down, and that we are prepared to implement conservation measures and implore the American people to also think about that from the standpoint of the implementation of conservation measures. If we don't do it ourselves, it is difficult for us to ask the American people to do it.

So I do hope the leadership in this body, on both sides of the aisle, is listening to the American people and is cognizant of the fact that people across America simply don't think we are doing anything and that partisan politics is not allowing us to do anything; that we address that issue; that we find long-term solutions which will help in the short term as well as the long term; and that we seek positive legislation coming forward from both sides of the aisle to address this problem immediately.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. 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. STEVENS. Mr. President, what is the situation regarding time?

The PRESIDING OFFICER. The Senator from Alaska has 15 minutes.

DEVELOPMENT IN ANWR

Mr. STEVENS. Mr. President, Americans are forced to pay more for gas every day, every week. The price is going up and up. There have been many ideas presented on the floor of the Senate, but I do think some of the comments made by the Senator from New York, Mr. SCHUMER, need a response. He has made some comments about the developing of the Arctic Plain, known as ANWR. Actually, it is not part of the Arctic Wildlife Refuge. It is 1½ million acres that were set aside in 1980 for oil and gas exploration and development. That land has been waiting for approval of Congress and the President. The 1980 act required that there be an environmental impact statement finding that there would be no irreparable harm to the flora and fauna of the Arctic, and that finding would have to be approved by the President and Congress; namely, it would have to be approved by an act of Congress, signed by the President.

Since 1981, we have tried to proceed as was planned at that time. At the time that President Carter had withdrawn over 100 million acres of Alaska land, the one success we had in that bill—the 1980 bill—was the provision that permitted the exploration and development of the oil and gas resources of this area of the Arctic Plain.

Now, the Senator from New York said opening ANWR's 1 million barrels a day of production would reduce the price of gas at the pump by only a penny. We found that rather strange because he later said he wanted the President to ask the Saudi Arabian people to increase their production of oil from 700,000 to 800,000 barrels a day, and if they did, it would reduce the price of gas at the pump—at first, he said by 35 to 50 cents, and then he said it would reduce it by 62 cents a gallon. I find it strange that 1 million barrels of oil from Alaska would reduce the price at the pump by only one penny but 800,000 barrels a day from Saudi Arabia would reduce the price at the pump by 62 cents. Somehow or other, that kind of calculation is not the way we add up things in Alaska.

Let me repeat that. He said: One million barrels a day from Alaska would reduce the price at the pump by one penny, but 800,000 barrels a day from Saudi Arabia would reduce the price up to 62 cents. It is not really understandable when a Senator presents arguments that contradict each other. I think it is time now for the Senator

from New York to come back to the Senate floor and restate his position on ANWR. Is it an economic position or is it just a philosophical position, where he is agreeing with those people who are against exploration and development of the Arctic Slope? If it is, I understand it.

At first, the Senator from New York said he favored drilling in the eastern Gulf of Mexico because the oil could come to market more quickly than Alaskan oil. That, too, is too much to pass up. Congress authorized the eastern gulf development a year and a half ago, in December 2006. The lease sale occurred this past March, and it will be 7 to 10 years before that oil comes to shore. As a matter of fact, it is probably going to take longer to develop the gulf oil than it would take to develop the Alaskan oil on the Arctic Slope because the 3-D seismic has been done in our State. We know where the oil is located. We just have to finish exploration and develop that field. And it would take less time because there is a pipeline already in place.

Perhaps the Senator from New York has forgotten that we have a pipeline. At the time of the Persian Gulf war, that line carried 2.1 million barrels a day to American markets. Now it is carrying about 700,000. It is about two-thirds empty, Mr. President. That is a very difficult thing for Alaskans to understand, when we know there is oil in the Arctic Plain waiting to be developed. As a matter of fact, if President Clinton had not vetoed the ANWR bill in 1995, we would have up to 1½ million barrels a day being delivered today through that pipeline. That argument has been the same every year since 1980.

I have been here every year trying to get approval of the finding that there would be no irreparable harm to the Arctic if developed. It is supported by the people of Alaska and other people of the United States and there is an overwhelming approval now to proceed with development of the Arctic Slope. It has to be done.

We have had development of our Arctic at Prudhoe Bay. At the time we argued on the floor of the Senate for approval of the amendment to permit the oil pipeline to be built back in the 1970s, there were cries on the Senate floor, in the press, and throughout the country that it would harm the caribou, that the caribou would be put into jeopardy.

Mr. President, there are three to four times as many caribou in that area now than before the pipeline was built. As the pipeline was built, in the area where it was restored, we planted grasses there that were even better than the natural grasses. If you want to see caribou in Alaska now, the place to go is by the pipeline. We have not had any spill on shore of any nature. There was some last winter—in terms of a gathering pipeline, that leaked a little. But it was during the winter-time, and it was totally cleaned up and there has been no irreparable harm.

We have literally billions of barrels of oil available to us. At the time we proceeded with the oil pipeline, the estimate was made that Prudhoe Bay would develop 1 billion barrels. Well, we have sent over 14 billion barrels of oil to the south 48, by virtue of the Mondale amendment to the Oil Pipeline Act, that all the oil transmitted in the Alaska pipeline must go to American markets. I voted for that amendment. I think this is American oil, and it should fill American needs. As a matter of fact, we are tired of seeing the increase in the importation of oil from foreign sources.

At the time of the 1970s embargo on oil by the Arab nations, we were importing about 33 percent of our oil. Today we are importing over 60 percent of our oil. In about 5 years we will be importing about 40 percent of our natural gas, LNG. Think about that. This Nation, which has been a leader in the world in industrial development and in technology, is going to be at the place where almost two-thirds of our need for oil or gas is going to be dependent upon foreign sources, when we have known areas in this country that can boost out oil and gas.

It is primarily a situation where this is an opposition that has arisen on a political basis. After President Clinton vetoed the ANWR bill in 1995, many of my friends on the other side of the aisle decided they would not support ANWR anymore, and they have voted that way.

I think it is unfortunate because we should have access to develop American sources of oil to meet American needs. This area of our North Slope meets those conditions fairly well. I do think the concept of the Senator from New York, in demanding that the President go to Saudi Arabia to increase their production when he opposes doing so in this country, is unacceptable.

It is the duty of Congress to keep American dollars in America when we can. By developing a very small portion—less than 2,000 acres of that million and a half acres, which is all we need to develop for the oil and gas resources of the Arctic Plain—we could offset the entire oil imports we bring in from Venezuela or Saudi Arabia. I was surprised at my friend from New York, when he said the idea of developing the ANWR oil is a poorly executed “magic trick.” I don’t know what is magic about it. It is just a matter of simple engineering. We can and have developed oil and gas in the Arctic, and we have not seen the harm that other people have indicated would come to either our area or to the wildlife of our area.

We need to have Americans realize it is the very fact of starting to develop this oil that will bring down the prices from foreign sources. Once the foreign sources see we are getting ready to increase our own supply, they will start reducing their price in order to take away the incentive we have, based on

the current prices, to open these areas in the United States. So if you want an immediate reaction from anything, in terms of this current gas price problem, then have the Congress act and have the President sign a bill to start the development of the Arctic Plain, known as ANWR. If we do that, that signal to the foreign producers of oil will say America is just getting ready to restore its own supply. If it restores its own supply, prices will come down in foreign oil. They don’t want our competition; they want our markets. So far they are convinced that we will not provide our own oil, and since we will not, there is no limit to what they will charge us for oil.

We have seen such a dramatic change that I cannot believe it. At the time the oil pipeline was approved, oil was \$7 and \$8 a barrel. It is now approaching \$150 a barrel. Why? Because of the law of supply and demand. We have refused to increase our domestic supply of oil, and having done so the price is set at a world price.

I remember there used to be a posted price in San Diego or Los Angeles or Philadelphia or Seattle or even in Alaska—a posted price by the refineries on how much they paid for oil. That is no longer the case. The case is now that we look to the foreign suppliers to see what they are going to charge. We have to pay whatever they charge. With an increasing demand all over the world from the developing countries, such as China, there is no reason for us not to understand what is happening.

Just a week ago, on the front page of the Wall Street Journal, there was a chart that showed the future situation with oil and gas. It showed the supply almost steady at the same level for coming years. It showed the demand on an ever-increasing curve going up, up, and up. When the price of oil started going up, I predicted on the floor of the Senate, when we debated the ANWR situation in 2006, that the price of oil could reach \$100 a barrel. Actually, there was laughter from the other side of the aisle. Some of my Democratic colleagues laughed and said it was another exaggeration by the Senator from Alaska.

Mr. President, it reached not only \$100 a barrel, it is over that. It is going to stay over \$100 a barrel, until we wake up and start developing our own supply of oil. Once we start developing that supply, the foreigners will know we are going to be able to bring that price down by our supply, and they will start bringing it down so we will not increase it to the point where we present a dangerous challenge to their domination of the world market, as far as oil is concerned.

I think the concept of these imports has just been totally missed. My friends talk about exporting jobs. Nothing has exported more jobs than purchasing our oil abroad. Every 1 million barrels of oil a day coming in has eliminated 20,000 jobs in the United

States. That is 20,000 jobs for every million, and we are importing over 12 million barrels of oil a day. Mr. President, 12 million barrels of oil is the same as 240,000 jobs.

When we look at this, I think it is time for the Senate to settle down. I do hope my friend from New York will settle down a little bit because there is no trickery in ANWR, there is no trickery in exploring and developing American sources of oil. The trickery is in terms of the prices we are paying, the exaggerated prices caused by those who are buying futures and speculating futures on our oil. We are no longer buying oil from foreign sources, we are buying them from some of our own people who invested in futures, and they are speculating on that price and driving up the price.

It is time for us to get down to the fact that we must find a way to authorize exploration and development of the Arctic Plain, known as ANWR.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak on Senator CORNYN’s time for up to 5 minutes, and I further ask unanimous consent that after I speak, the Senator from Illinois be recognized.

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

Mr. BROWNBACK. Mr. President, I appreciate my colleague from Alaska raising some of these points. I was thinking particularly about the point that the markets react to what actions are taken, and that is a key point on driving prices down.

I used to report on commodity markets a number of years ago when I was a broadcaster. The idea of buy on the rumor and sell on the fact is something to which markets react. So we could help on a near-term basis driving these prices down if we would act. Plus, I like the idea of pegging a price of a gallon of gasoline. When the average prices across the country hit \$4.50 a gallon, let’s give Governors the option of opening some of these closed-off lands. These are ideas we ought to be talking about on getting energy prices down.

TORNADO DAMAGE IN KANSAS

Mr. President, the reason I have come to the floor is not to talk about energy prices but to talk about what happened in my State last night. We had devastating tornadoes. A series of tornadoes struck parts of our State and caused at least two deaths and a huge amount of damage in a swath 150 miles long. The counties of Ellsworth, Saline, Dickinson, Riley, Clay, Geary, Pottawatomie, and Jackson all suffered severe damage last night.

The town of Chapman in Dickinson County, with a population of 1,400, appears to be the hardest hit. Initial estimates are 85 percent of the homes and businesses have received some damage, and up to 70 percent of the town may be destroyed.

One person is reported dead in Chapman. Also one person is reported dead in Soldier, KS. That is in Jackson County. Certainly, my prayers and the prayers of many go to the victims and their families who are struggling and suffering.

Damage was also reported in Salina, KS, and Manhattan, KS. The northern part of Kansas State University apparently received extensive damage.

I am hopeful my colleague PAT ROBERTS and I will be able to travel with others this afternoon to look at some of that damage.

Evidently, the tornado touched down near the old field house on Kansas State University campus, the Ahearn Field House, and traveled across campus. There was damage sustained on Cardwell Hall, Ward Hall, Burt Hall, and the engineering complex. Ward Hall houses a nuclear reactor, a teaching facility nuclear reactor, and the building received some damage. The reactor is safe.

The Wind Erosion Laboratory, a federal laboratory on the K State campus, apparently was destroyed.

Damage was also reported in several of the parking lots with cars being tossed around. The Sigma Alpha Epsilon house received extensive damage. Thankfully all the residents there are safe.

While it is early, the damage will be well into the millions of dollars. My office and the office of my colleague PAT ROBERTS contacted FEMA and State officials this morning, and we continue to work closely with both State and Federal officials to help the citizens of Kansas rebuild.

This has been a very difficult, extraordinary tornado season. I was in north central Kansas on Monday of this week looking at damage to another of our towns, Jewell, KS, and the extensive damage there by a tornado within the past 2 weeks. We have had these on a periodic basis. We are getting a lot of hail damage and a lot of wind and rain damage throughout the State. It seems as if every other night there is some system developing and passing through the region.

Certainly, as well, everybody's thoughts and prayers are with the scout troop in Iowa that suffered four deaths, apparently perhaps more, due to the tornado that was in much of that same line of thunderstorms and tornadoes that swept throughout much of the Midwest last night.

I say that to this body as a way of recognizing and stating to people what is taking place as far as damage, and also the support and help we are going to need throughout the Midwest for some of the tornado damage that has occurred. It is extensive.

We are in a very difficult tornado season. It does not appear to be abating. We are getting a lot of flood damage, hail damage, and tornado damage. We will be reporting back to the body on some of the work that is going to need to be done to rebuild, whether it

is Kansas State University, Chapman, or other places that have been damaged. We can only hope we can last the rest of the season with no more loss of life and hope there is no more damage to communities. But it has been a very difficult season.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The assistant majority leader is recognized.

PRICE OF GASOLINE

Mr. DURBIN. Mr. President, in my brief period of time, I wish to address two issues. One relates to a topic that is important across America. Another relates to the pending legislation.

The first topic is the issue of the price of gasoline. I don't need to show this chart to people to remind them what is happening. Beginning with the Bush administration when the President was sworn into office, the average price for a gallon of gasoline was \$1.47. As of June 9, the average price across America was \$4.04, the most dramatic increase in the price of gasoline in our history. It is a situation which has called for analysis and attention because no matter where we go—in Illinois, Ohio, in any State—people say: Senator, what are you going to do about these gas prices? They are killing us.

They go to the gasoline stations, the service stations, pull out their credit cards and cash, and cannot believe how much it costs. It is not just an inconvenience for many people, it is a hardship. For some, they have had to make family budget decisions because they cannot afford to keep the tank full, and many do not have an option. If they are from my part of the world in downstate Illinois, there are not that many buses outside the cities. There is no mass transit. What are you going to do? You moved out into the country to get a home you can afford. You commute to a job spending an hour each way to work. And now filling that gas tank takes so much of your paycheck, so you have to cut back in other areas or borrow more deeply, finding your credit card balance growing and your ability to reckon with it diminishing. That is the reality of where we are today.

Obviously, people across America say: Well, Senators, what are you going to do about it? You were elected, weren't you, to do something about the issues and challenges facing our country?

So this week we came to the floor and said: Let's debate it. Let's put our best efforts to work. Let's debate a bill that may help and amend it and try to come up with some way to deal with the energy crisis facing America.

On Tuesday, we took this vote. We needed 60 out of 100 Senators to vote to start the debate—60 out of 100. When the final count was in, all the Democrats voted for it, six or seven Republicans joined us, and we were still about nine votes short of what we needed. The motion to proceed failed.

At that point, we couldn't even debate the most serious issue facing fam-

ilies and businesses across America. That is unfortunate. All we needed were nine more Republicans to join us to start the debate. That is all we wanted to do—start the debate. Maybe we would have agreed on something. Wouldn't that be newsworthy?

But as it stands, we had two votes on Tuesday, we tried to proceed to bills, and in both instances, the Republican minority said: No, we don't want to debate anything on the floor of the Senate this week. And that is exactly what we have done. We have debated nothing.

If Members of the Senate were paid for the votes they cast, this Senate this week has not earned a minimum wage. I don't know how we can continue to do this in what is euphemistically called the world's greatest deliberative body. Mr. President, do you know what the problem was? One of the provisions in our bill angered the Republicans. We suggested that the oil companies, if they are going to charge these outrageous amounts for their products, should be subject to a higher tax for windfall profits. I support that. I think it is the right thing to do, to discourage the profit taking that is going on. Many Republicans oppose it, and I don't question their motives on it. Isn't it worth debating? Isn't it worth a vote? At the end of the day somebody wins and somebody loses. That is what happens on the floor of the Senate. But on the Republican side, they stopped us from even going to that debate over the oil companies.

Surely, they must hear from their voters at home how bad the situation is. I know they hear from the oil company lobbyists who are roaming these hallways that they need to be protected.

Let's take a look and see how the oil companies have been doing. Not bad. Starting in 2001 when President Bush arrived on the scene, this is an indication of the profits of the oil companies. Profits of the oil companies under this administration have gone up 400 percent.

Some of the numbers are startling. In 2006, profits reported by ExxonMobil were \$39.5 billion, the largest recorded profit in U.S. history. Listen to that. Not the largest recorded profit by an oil company; the largest reported profit by any business in the history of the United States of America.

Come 2007, ExxonMobil broke its own record. Profits went up to \$40.6 billion; the annual salary for their CEO, \$21.7 million. A retirement package for ExxonMobil's previous CEO—job well done—no gold watch for this man, a gold mine, \$400 million as his farewell gift. What a great party that must have been to say thanks for all the good work you have done for ExxonMobil. Here is \$400 million. Have a nice day.

People across America are not having a nice day. When they pull into an Exxon station, when they fill up their

gas tank, it is a bad day, it is a tough day for a lot of American families.

The total combined net profits of the big five oil companies under this administration are \$556 billion. How much money did they invest back into more oil wells, more production? About an 80-percent increase in their capital investment, a 300-percent increase in the cash they held back to buy back stock and improve their profitability—not improve their productivity, their profitability.

Investments in alternative fuels by these big five oil companies? Negligible. That is the reality.

I think that is worth a debate, don't you? Isn't that what the Senate is supposed to be about? We come in and say it is time for this to end, it is time for Americans to stop being taken to the cleaners by the oil companies, and it is time for them to pay higher taxes to discourage them from profit taking. I support that position. Others oppose it.

On Tuesday, the Republicans said: No, there will be no debate. And that is the end of the story, at least for this week. We will go home and the voters will ask the same question: What did the Senate do about oil prices, gas prices this week? And the honest answer is nothing.

This is not the first time we faced this filibuster. The Republican filibusters so far in this 2-year session, 75 Republican filibusters and still counting—75. To put it in perspective, a filibuster is when you delay or stop debate on an issue, delay or stop a bill, an amendment, a nomination. It is your right in the Senate to do that. But people were careful not to abuse it in the past.

In the history of the Senate, the largest number of filibusters in any 2-year period of time was 57. So far in this session, with another 6 or 7 months to go, the Republicans have initiated 75 filibusters, 75 attempts to stop progress in the Senate, to stop debate in the Senate, to stop us from moving forward on bills related to everything under the Sun. They even went so far as to filibuster a technical corrections bill. These are the bills that go in and take a hard look and see, oh, we forgot the punctuation or there is a reference that needs to be changed slightly. It is the kind of housekeeping you do when you have huge pieces of legislation, where even though staff works hard and the Members work hard, they miss something. So the technical corrections bill came up, we thought this would be easy, so let's get this over with, but it took a week because we faced a filibuster on it. They wanted to filibuster a technical corrections bill. That doesn't take us to where we need to go as a nation.

We at least owe the American people a healthy, spirited, fair, and open debate on the issue when it comes to this energy crisis. We can't get it in this Senate. We have been stopped. A 51-to-49 Senate does not allow us to come up with the 60 votes we need to move the

debate forward. Well, the final vote will be in the hands of the voters of America on November 4. They will decide whether they want change in this town and change in this Chamber; whether they want to elect some people who will come, roll up their sleeves, and get down to work.

We have a lot of things to do in this country—an energy crisis, global warming, carbon pollution, a health care crisis, two wars, a looming recession, and the bankruptcy of Medicare and Social Security. We don't need more filibusters. We need more work right here in the Senate. I hope we can return to that after the next election, or maybe, if there is a miracle, even next week, if the minority party decides that is what will happen.

MEDICARE

Mr. President, we are debating a motion to proceed, once again, to a bipartisan bill to help Medicare. It has the support of AARP, the American Medical Association, and lots of others. It picks up where we left off in December, when we passed a bill that was a short-term fix. We bought 6 months then, and we are back again.

The bill we are considering prevents physicians from facing a 10.6-percent cut in Medicare payments on July 1, and gives them a 1.1-percent payment increase for 2009. The physicians who work under Medicare will also receive a 2-percent bonus, if they participate in a program to reduce the number of errors and improve the quality of their service, called the Physician Quality Reporting Initiative. It is a responsible way to avoid a severe cut in payments to physicians and to ensure payments are adequate for the next 18 months.

As important as it is to ensure that our physicians are paid adequately for the good work they do for millions of Americans—some 40 million Americans covered by Medicare—we didn't want this bill to just be a doctor fix. The bill contains a lot of changes in Medicare that will help beneficiaries.

The Medicare Savings Programs provide financial assistance to low-income Medicare beneficiaries who can't afford Medicare's premiums, copayments, and deductibles. Many low-income beneficiaries are excluded from this assistance because they have accumulated modest savings. These are retired people, by and large.

Today, if you have assets of more than \$4,000, \$6,000 for couples, you can't qualify for Medicare Savings Programs. We haven't changed that number for almost 20 years—\$4,000. Under the bill before us, the asset limit will roughly double, providing real assistance to those who don't have much money and still need Medicare.

This bill, which the chairman of the Finance Committee, Chairman BAUCUS, brings to us, also makes an important move toward mental health parity. It is hard to imagine it has been more than 5 years, almost 6 years since Senator Paul Wellstone died in a plane crash. What a great guy. What a great

Senator. His heart was there for so many issues but especially when it came to mental health issues because his family was touched by this challenge. Paul Wellstone used to ask: Why don't we treat mental illness like an illness, instead of a curse? Why don't we treat mental illness like a physical illness when it comes to health insurance? He worked on us and worked on the issue and Senator DOMENICI, a Republican from New Mexico, joined him to make it a bipartisan effort.

I am sorry to say that some 6 years later, we haven't passed that Wellstone-Domenici bill. Senator KENNEDY was working on it before he had his problems. I hope we can return to it. This bill takes a modest step forward in that debate.

Over the years, our understanding of mental health and the ways to treat it have grown, but Medicare continues to discriminate against services for those who are mentally ill by imposing a 50-percent cost-sharing requirement compared to 20 percent for most other services. This bill phases out that higher copayment over 6 years. It is a step in the right direction.

We have made some progress in recent years, adding preventive health services to Medicare, such as screenings for heart disease, diabetes, and cancer, but it literally requires an act of Congress to add a new preventive benefit. The Baucus bill will make it easier to add preventive services to Medicare. It would create a process for the Secretary of Health and Human Services to add them, if recommended by the U.S. Preventive Services Task Force.

We also address market abuses in this bill. There is a program called Medicare Advantage. Private health insurance companies love it. You know why. They make a bundle off these programs. They sell them to seniors, and they charge more than 12 percent over basic Medicare premiums. Frankly, I happen to believe they do not show the results for their effort, and they are involved in some marketing practices which we have to try our best to curb.

Seniors are vulnerable. You know as well as I do that many people who reach their elderly years don't have someone at hand to give them good advice, and many times, frankly, they sign up for things they shouldn't. This bill addresses disturbing reports of abusive and fraudulent sales-and-marketing practices by Medicare Advantage plans and Medicare drug plans. Medicare beneficiaries have been enrolling in private plans they didn't understand, and many of them have faced outright fraud and exploitation by these Medicare Advantage companies. This bill will rein that in.

Senator CHUCK GRASSLEY of Iowa, a man I respect and like, is going to offer an alternative to our bill, which I have described, but it doesn't provide assistance to low-income Medicare beneficiaries. It doesn't deal with mental health parity, and it doesn't ease the process of adding preventive services.

There are many other provisions in this bill. It has been long overdue, and a lot of people have asked us to take up this bill because Medicare is so important at a time when people are losing their health insurance coverage. For the seniors and disabled who count on Medicare, this bill is important. But we need 60 votes. I hope we will get 60 votes. I hope we don't face another filibuster on this critically important bill.

This is something that should pass. This bill is balanced, it provides needed improvements to Medicare, but it is responsible. We fully offset any cost to the Treasury, primarily by reducing overpayments in the private Medicare Advantage plans, which are paid 13 percent—I said 12 percent earlier, but it is 13 percent—more than it would cost to cover someone in traditional Medicare.

I think it is responsible. Rather than adding new costs to Medicare and to the deficit, we pay for it. Pay as you go. In the old days, that used to be called being a fiscal conservative. The other side of the aisle used to be very proud to say they were fiscally conservative. Now, ironically, the table is turned. In fact, it is turned upside down. The Democrats are calling for fiscal conservatism—pay as you go, don't add to the deficit, be responsible—and the Republicans—some—are saying no. I hope they do not prevail. I hope we can prevail with a paid-for bill.

It is a bipartisan bill. Senators SNOWE, ROCKEFELLER, and SMITH have joined Senator BAUCUS. I am going to support it, and I hope all my colleagues do when it comes up for a vote later this afternoon.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Utah is recognized.

Mr. HATCH. Mr. President, I rise to oppose cloture on the motion to proceed to the Baucus Medicare bill, and there is reason to oppose at this time.

I will keep my comments brief, but I wish to make one point perfectly clear. I have said, time and time again, I am willing to work with my colleagues on the other side of the aisle to get a bipartisan Medicare bill through the Senate. I have always prided myself on being someone who is fair, honest, and who wants to get the job done. Unfortunately, others in this body don't seem to want to get the job done, and that disappoints me more than most of you will ever know.

My biggest frustration is we are not that far apart. Both sides wish to restore physician Medicare payments so doctors are not cut by 10 percent on July 1. We also agree we need to implement the provisions on e-prescribing, electronic health records—where my home State of Utah is the leader—and value-based purchasing for Medicare providers and beneficiaries. We both believe a strong, robust rural health care package is necessary and, therefore, should be included in the Medicare package. Both the Democratic and Republican Medicare bills include marketing reforms for Medicare Advantage

plans in order to ensure beneficiaries are treated with respect and are given truthful and helpful information so they may choose the Medicare Advantage plan that best suits their personal needs. Medicare Advantage has worked amazingly well. Democrats want to take the “pay for” out of the Medicare Advantage plans, and 90 percent of the people in this country who are on Medicare Advantage want to continue on it because they believe they are better treated. They are, as a matter of fact. It is a system that works. Why change it?

We include provisions that would allow both hospital-based renal dialysis centers and skilled nursing facilities to be sites for telehealth services. As a strong supporter of telehealth services, I am very supportive of this provision, and both bills have it in.

Finally, both bills extend the Special Diabetes Program for 2 more years. This program is very important to me. So as you can see, we agree on a lot. Unfortunately, the two outstanding issues, in my opinion, are Medicare beneficiary protections and offsets.

The Baucus Medicare provisions include provisions that would increase Medicare beneficiary protections in the Medicare Program. It would increase the low-income subsidies for beneficiaries, extend the availability of the “Welcome to Medicare” physical examination from 6 months to 1 year.

I wish to make it clear our side could support these beneficiary changes, but we are very concerned about the impact these changes would have on long-term entitlement spending. The prices are going to continue to ramp up all the time, and our friends on the other side don't ever seem to worry about that. With 76 million baby boomers retiring over the next three decades, the Medicare Program is already headed for serious fiscal disaster. So we need to be thoughtful about these provisions and not just do what our colleagues on the other side want to do.

Therefore, we believe it makes sense to means test the Medicare Part D beneficiary premiums for higher income beneficiaries. Although my friends on the other side are constantly arguing that the rich don't pay their fair share, unfortunately, when we suggested this, colleagues on the other side of the aisle—and, in fairness, some on our side as well—objected to means testing Part D premiums. I do not understand their objections.

We already means test Medicare Part B premiums, and that had bipartisan support. Making that change would not only have wealthier beneficiaries shouldering a greater share of their Part D premiums, it could also pay for some of the beneficiary protections included in the Baucus Medicare bill.

It is greatly disappointing to me that our friends on the other side of the aisle are not willing to accept this offset. In fact, we have been told point-blank that they cannot support increasing Part D premiums for rich

Medicare beneficiaries in order to provide more assistance and benefits to lower income seniors. That is despite the fact that they have cut some very serious programs for the poor in order to find offsets for some of the things they want to do. I am going to say it again. I do not understand it. Especially since both sides supported means-tested Medicare Part B premiums.

Hopefully, we will be able to change their minds when we begin our work to improve the Medicare Program so it will be more efficient for both beneficiaries and providers. That is the reason why we should vote against cloture, so our friends on the other side have to come together with us to have a better bill, and I believe we can.

The second major issue concerns the offset used in the Baucus bill to pay for its provisions. The White House has told us, time and time again, the President will only be able to accept very minimal reductions to the Medicare Advantage Program. Time and time again he has said that. Otherwise, he is going to veto the bill.

That is why Senator GRASSLEY and I have insisted the White House be included in the Senate Medicare negotiations. We do not want to send a Medicare bill to the White House that is going to be vetoed and, therefore, put the physicians' Medicare payments in jeopardy. It is another reason to vote against cloture, so we don't go through the charade we will have to go through if we don't.

But that is exactly what is going to happen if the Baucus Medicare gets cloture today. It will probably pass the Senate and then be considered by the House of Representatives. The House will make changes to the bill, too, that will probably not be acceptable to the White House. Then the Senate will have to consider the Medicare bill with the House's changes before it is sent to the White House for a certain veto. It is ridiculous. Why do they have to do a partisan bill? Why not work with us, since we want to work with them?

We will not have the votes to override the President's veto of the Medicare bill, so we will be back to square one and we will have wasted a lot of time and maybe even have done some very bad damage.

I believe the Grassley Medicare legislation, which I strongly support, would not suffer the same fate as the Baucus legislation. That is why I believe this bill should be considered by the Senate instead of the Baucus Medicare bill. We are so close together on almost all these provisions, except for these few I have mentioned. The Grassley bill is a better bill. The President will sign it into law.

I would like to take a moment to highlight the major differences between the Grassley Medicare bill and the Baucus Medicare legislation.

On this chart, first, as you can see the Grassley Medicare bill encourages e-prescribing sooner rather than later.

The Grassley bill requires physicians to e-prescribe by 2010, while the Baucus bill delays mandatory e-prescribing until 2011.

In addition, the Grassley Medicare bill repeals the Deficit Reduction Act provision on the transfer of ownership of oxygen equipment to Medicare beneficiaries. The Baucus bill cuts Medicare payments for oxygen and oxygen equipment. It is somewhat shocking to me, but that is what they do.

On durable medical equipment for competitive bidding, the Grassley bill includes a sense of the Senate to delay competitive bidding for durable medical equipment for 18 months. The Baucus Medicare proposal as filed does not even address competitive bidding.

Let's go to chart No. 2.

The Grassley bill also has provisions on hospital value-based purchasing. The Baucus Medicare bill does not include a similar provision. You would think we would want to go to hospital value-based purchasing.

The Baucus Medicare bill reduces the Medicare reimbursement rates for power wheelchairs, of all things. The Grassley Medicare bill does not cut Medicare payments for power wheelchairs. You would think we could get together on that.

The Grassley Medicare bill provides continued relief for hospitals with high numbers of undocumented individuals. The Baucus bill does not include a similar provision. Again, as anybody can plainly see, the Grassley bill is a better option.

I am going to conclude with one very valid and important point. My colleagues need to vote against cloture today so we can begin work on a bipartisan bill that will be signed by the President. We do not need to be wasting our time going back and forth on a bill that does not have a chance of becoming law. In fact, we need to roll up our sleeves and get to work immediately so we can get this legislation to the White House before the July 1 deadline. Otherwise, our Medicare beneficiaries and doctors participating in the Medicare Program will lose. But you know who the biggest loser will be in this process. That is the Senate, because we have failed to do our job, therefore letting down both Medicare beneficiaries and Medicare providers.

I urge my colleagues to vote against cloture to avoid this terrible situation and to take the more appropriate, better designed, and more compassionate bill. Frankly, that is what our bill is. I just hope our colleagues will see this and vote against cloture.

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

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

HABEAS CORPUS

Mr. BINGAMAN. Mr. President, I will speak very briefly here to call to the attention of all Senators the very important decision that was just handed down this morning by the Supreme Court regarding the prisoners who are detained in Guantanamo.

The Supreme Court has once again rejected the administration's approach in disregarding basic due process rights and our Nation's longstanding commitment to the rule of law. The Court, in a decision written by Justice Kennedy, held that individuals detained at Guantanamo have a constitutional right to challenge their prolonged detention in civilian courts.

Furthermore, the Supreme Court found that the Military Commissions Act of 2006 amounted to an unconstitutional suspension of the writ of habeas corpus. The Court today reiterated that the Great Writ, the writ of habeas corpus, remains as a fundamental protector of individual liberty and as a safeguard against arbitrary detention by the Government. This right, which is enshrined in our Constitution, simply allows for an independent and meaningful review of a person's confinement by the Government.

Nothing in today's decision requires that the Government release the prisoners held at Guantanamo. Many of those prisoners have been held there for over 6 years without access to meaningful judicial review. The decision simply allows these individuals to ask a court whether their continued confinement is in accordance with our Constitution.

The President has asserted extraordinary authority to indefinitely imprison anyone he designates as a so-called enemy combatant—that would include U.S. citizens, according to the administration's legal position—and that that detention could continue without any judicial review.

It is time that we change course and recognize that acting in a manner consistent with our Constitution and with our core American values is not a sign of weakness.

It is a sign of our strength and a sign of who we are as a people. I am very pleased that our highest Court has reaffirmed our Nation's respect for the rule of law and sent a clear message that the Constitution remains strong.

I yield the floor and 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. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, I was just visiting with my colleague from New Mexico. I was unaware of the Supreme Court decision this morning. But the decision by which they have overturned some legislation that re-

tracted the right of habeas corpus for those who might be suspected of some sort of illegal activity and so on in this country, that decision by the Supreme Court is a very important decision.

I could not believe when the Senate passed a piece of legislation saying that someone who is apprehended or detained in this country would not have the right of habeas corpus. That is a different kind of country than I know. There are countries in this world where they can pick you up right off the streets and say: Do you have papers? Even if you have papers they can throw you in jail, and you have no right to anything, including filing a writ to say: A government cannot hold me. A government must prove there is reason to hold me.

That is unbelievable that this Congress it—not with my vote. But I commend the Supreme Court. I haven't had much opportunity to do that recently, I must say. But their ruling this morning gives me some hope.

Mr. President, we have a cloture vote at 3 o'clock this afternoon. I wanted to mention the important subject of the cloture vote is dealing with some Medicare changes.

Medicare is an unbelievably important program. Prior to Medicare, not many people look back and remember this because most of us have lived our lives with Medicare in existence. Before Medicare, one-half of the American senior citizens had no health insurance at all. Does anybody think that an insurance company says: You know what. We have a new business plan. Our plan is we want to find people who are old and provide health insurance for them. That is not the way a business plan works. If you are selling insurance, you like to find somebody young and healthy.

As a result, if you go back to the 1950s, early 1960s, you will find that one-half of senior citizens of this country had no health coverage. Now, it is a very small percentage that have no health coverage. The vast majority of American senior citizens are covered by Medicare. It is a good program.

I grew up in a little town of 300 people. We had a guy named Doc Hill, Dr. Simon W. Hill. He came into town and he stayed until he died. He practiced medicine. We did not have a Medicare Program, but he tried to give everybody whatever health care they needed. He tried the best he could. We had no lawyer in our town, so he was never sued. He pulled the tooth of my neighbor. He was not a dentist, but he was a doctor. The neighbor had a terrible toothache, we were 50 miles from the nearest dentist, so Doc Hill pulled his tooth. It turns out he pulled the wrong tooth. But, you know, the fact is, Doc Hill did the best he could. He practiced medicine in my hometown. I think he delivered close to 2,000 babies decade after decade after decade. He ran his own Medicare and Medicaid Program. If you did not have any money, you got health care to the best he could give it.

If you had money, he would charge you an arm and a leg. If you had 24 fryer chickens, he would take that; maybe a quarter beef, maybe half of a hog—whatever it was, he ran a program in a little town.

Well, that is all gone. That does not exist anymore. The fact is, we now have a Medicare Program that serves America's senior citizens with health care and says to them: If you get sick, here is a program that is to provide some help to you.

Now, my colleague, Senator BAUCUS, and the Finance Committee have brought a piece of legislation to the Senate floor, and we have to have a cloture vote on it this afternoon because the other side is objecting. My hope is that we will have sufficient votes this afternoon to advance this bill.

It makes some changes in Medicare that need to be made because we are bumping up against a deadline at the end of this month. Among other things, it reauthorizes the special diabetes program. That is something in which Senator DOMENICI from New Mexico and I have been involved. We have introduced some reauthorization legislation here.

The diabetes issue is a scourge in this country. I chair the Indian Affairs Committee in the Senate, and the fact is, we have some areas on Indian reservations in this country where 40 or 50 percent of the adult population are affected by diabetes. Go there and go to their dialysis units and see all of them sitting hooked up to dialysis units. Then see how many have lost their legs through amputation. See how many of them have early heart disease as a result of their diabetes. This piece of legislation by Senator BAUCUS and the Finance Committee begins to address some of those issues.

It also makes reforms to what is called the Medicare Advantage Program. Now, some of my colleagues have come to the floor and said, well, this bill cuts Medicare. That is total rubbish. This does not cut Medicare. It takes one portion of Medicare, called the Medicare Advantage Program, which pays more for healthcare as opposed traditional Medicare.

This is one of those little pilot programs that some in this Chamber wanted, so they seeded it with extra funding. Well, the extra funding has been a waste of money, a tragic waste of money. And this gets some of the waste and abuse out of it. If my colleagues are upset about getting rid of waste and abuse, I am sorry. Maybe they will not sleep very well if we pass this bill. But the fact is, when we see waste and abuse, we ought to go after that. That is what the Finance Committee and Senator BAUCUS have done.

They have used that funding they have achieved by getting rid of some waste and abuse in the Medicare Advantage Program. They have used that funding to address some other urgent issues.

If we do not do anything by the end of this month, we will see a 10-percent cut to physician payments. Well, physicians in my State are already at the bottom of the wage index on physician payments. And the fact is, a 10-percent cut would be devastating to senior citizens in my state who rely on Medicare. It seems to me we should not be doing things that will predict a degradation of health care. We should not be doing those things.

The Finance bill and Senator BAUCUS have brought a piece of legislation to the floor that avoids that 10-percent payment cut and establishes a 1.1-percent increase instead through fiscal year 2009.

It is the right thing to do. Now, if you decide you do not want to vote for cloture, to even allow this to proceed, then you are saying: You know what, just whack these programs. It does not matter what kind of health care exists in our States. It does not matter what happens to the senior citizens.

If that is your view, you know, God bless you. But it is sure a far cry from my view. I think we have responsibilities to make Medicare work, to provide decent funds for the providers so that our senior citizens have health care that all of us can be proud of.

There are many other features in this piece of legislation that are important. It talks about prompt payment to Main Street pharmacies. We have drugstores and pharmacists on the Main Streets across this country that are not getting the kind of prompt payment they should get. And some of them are threatened with the closure of their business because we have a system that is not reimbursing them as it should.

It improves access to telehealth, which is very important. This is a rather new form of delivery of health care, and Medicare is a part of it. It works. I have been in clinics, and I have seen the delivery of very sophisticated CAT scans and the delivery of x rays to a radiologist 150 miles away to get a reading and to be sent back to that rural clinic.

All of that makes a lot of sense. It gives us access to some of the best in the country through telemedicine. Then, in addition, the telemental health part of that is an opportunity for psychologists and psychiatrists to be engaged in telemental health, particularly on Indian reservations and elsewhere, where we have some of the highest rates of suicide any place in the country. Accessing telemental health services can be very important.

On the northern Great Plains—I know the Presiding Officer is from Montana. In Montana, North Dakota, on the northern Great Plains, the rate of suicide among Indian youth—I am talking about Indian teens—is not double, triple, or quadruple the rate across the country, it is 10 times the national rate. That is why telemental health is so important for all elements of our population, but also especially in Medicare for senior citizens. We are doing it

in other areas. Extending it to Medicare makes a great deal of sense.

The improvement of the quality of health care in Medicare, the prevention of the 10 percent in payment cuts to physicians, the diabetes prevention program, the elimination of the wasteful payments to Medicare Advantage, are just a few of the examples of why we must expect our colleagues will vote for cloture at 3 o'clock this afternoon. This is the right vote. It is an important vote.

Now, we have been through—yesterday it was energy, with gas at \$4 a gallon, and oil at somewhere around \$130, \$140 a barrel, the minority decided to embrace once again their just-say-no policy on everything. It does not matter what it is, just say no.

It reminds me of an old codger in his eighties who was once asked by a news reporter who said: Well, you have been around a long time. You must have seen a lot of changes in your life.

He said: Yeah, I have been against all of them.

We have people on the floor of the Senate who have decided they are against everything—just say no. My hope is after just saying no yesterday to energy issues at a time when gas is \$4 a gallon, it is unbelievable to me they would just say no to begin addressing that, but they did.

My hope is that today, on behalf of health care for senior citizens, they would finally decide to just say yes. If they will do that at 3 o'clock, we will pass this cloture petition and we will take what the Finance Committee and Senator BAUCUS have offered in the spirit of improving Medicare and saying to senior citizens and saying to their health care providers: We are going to do the right thing.

There is a time urgency. By the end of June we have to solve this matter. And I hope my colleagues will be listening and understand that we need this cloture petition to prevail at 3 o'clock this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. I so appreciate the Senator from North Dakota and his comments about the just-say-no philosophy around here. I have been in this institution only 15 months. I have seen his leadership on a whole host of issues, and I have also seen the disappointment that it is one filibuster after another—74, 75 filibusters, more than anytime in Senate history—on such commonsense legislation as the Energy bill yesterday and the Medicare bill today.

I am happy to see that Senator BAUCUS and Senator REID have brought the Medicare Improvements for Patients and Providers Act to the Senate floor today. It is crucial not just immediately for physicians and hospitals, not just immediately for patients, most importantly, but it is also crucial to the future of Medicare.

The bill not only prevents a 10.6-percent cut to payments for physicians

and other health care professionals, it gives these providers a small payment increase. The cost of providing health care has increased; payments to health care professionals should increase too.

Our history with Medicaid should teach us about the importance of preserving Medicare by keeping payment rates viable for providers. Inadequate Medicaid payment rates have compromised access to dentists and other health professionals. I visited with the dental unit at Children's Hospital in Columbus and talked to dentists all over the State, talked to hygienists and others. It is pretty clear that we do not have enough dental care, we do not have adequate dental care, especially for low-income young patients. The reason is we do not have adequate reimbursement for dentists to provide Medicaid dental care, particularly for those children. We need to fix that Medicaid problem, not recreate that same problem in Medicare.

This bill is about so much more than provider payment, as Senator DORGAN said. It contains important measures to improve Medicare for beneficiaries. It increases subsidies for low-income patients. It invests in preventative health care. It reduces out-of-pocket costs for mental health treatment.

Senator DURBIN spoke of Senator Wellstone's work and Senator DOMENICI's work on mental health treatment; to treat it like a disease not a stigma, and how important that is. This makes some downpayment on that solution.

This bill eliminates late enrollment penalties for Part D and modernizes Medigap policies. It bolsters rural health care, something I have discussed in my roundtables around Ohio. I have done some 90-plus roundtables in 65 counties and seen how inadequate rural health care is in rural areas of my State, as it is in the Presiding officer's State of Montana. The bill authorizes a special diabetes program.

This morning in my every-Thursday-morning coffee, which I have for Ohio residents in Washington, I met with Ohioans from Cincinnati, Columbus, Toledo, and Cleveland. Ohio's children are suffering from type 1 diabetes. They told devastating stories. One man told about his teenage daughter going blind. Another told me that by the time a young child with diabetes turns 18, she will have endured more than 30,000 shots.

Diabetes is one of the most prevalent and pressing health threats we face as a nation. The cost to the health care system is more than any other single disease. Reauthorizing the cost-effective Medicare diabetes program serves patients and taxpayers.

The bill has other crucial provisions. It exempts the value of life insurance from counting against seniors attempting to qualify for the low-income subsidy in Part D. Constituents have written to me telling me they are afraid of saving for the future, of all things, because they might lose their eligibility for subsidized drugs. What kind of system is that? This bill will help fix that.

One of the most common stories I have heard in my 90-plus roundtables, where I convene meetings of 15, 20, 25 people and ask them questions for an hour and a half, 2 hours, and we talk about their hopes, dreams, and problems, and where we, as a Senate, might be able to work with them and make their lives better, one of the most common stories I hear from Defiance and Gallipolis, from Middletown and Ash-tabula, whether I am meeting with providers or patients, is about Medicare. My office receives thousands of constituent letters about Medicare. I recently heard from an infectious disease doctor in Lima, who explained how he is squeezed by current Medicare rates. He said:

As health care costs have escalated and reimbursement has fallen, we have had to make some hard decisions.

He told me he has had to let go of employees, cut office hours, and that the financial stress is at the breaking point. He said:

Last year, a doctor would call me [about a patient] with an infected abscess. Commonly, I had the patient sent to my office, lance the boil, pack the wound, and give IV antibiotics daily in my office until transitioned to pills. The patient was never admitted to the hospital.

Since his office is less and less able to provide outpatient services—remember, I said he had laid people off—similar patients are now admitted to the hospital. What happens?

"The admission day alone," he says, "costs more than the entire course of therapy in my office."

It is obvious how inefficient and expensive this is. We need to fix the current payment system, and we will. But we should not grossly underpay those professionals while we work on a better system. Until that day, we should pass this bill. Medicare is one of the great accomplishments of our Government and of our country. Senators DORGAN and DURBIN both talked about in 1965, half of America's seniors didn't have any health insurance. Today that number is less than 1 percent. Because Medicare is one of the great accomplishments of our Government and our country, we have to preserve it. This bill takes major strides to do so.

In addition to voting yes at 3 o'clock on cloture, there has been another piece of related legislation I want to speak on for a moment. It is the alternative bill offered by Senator GRASSLEY, who I think is one of the single best legislators in this body. The bill he wrote as an alternative to our bill, to the Baucus legislation, perpetuates a shameful politically motivated subsidy program that overpays private insurance health maintenance organizations to the tune of \$10 billion a year. What this does is it overpays private insurance companies, undercutting fee-for-service traditional Medicare, causing taxpayers—requiring taxpayers—to give huge, frankly, unearned dollars to these insurance companies as they try to privatize Medicare. The Baucus bill

redirects these taxpayer-funded windfall payments from HMOs to concrete improvements in the Medicare Program.

In the beginning of my speech, the first 6 or 7 minutes, I talked about improvements we are making in the Medicare Program. We are able to do so by taking money away from the private for-profit Medicare HMOs that have reaped a windfall in the last 10 years as this Congress, particularly the Republican House and Senate for most of the last decade, shoveled more and more public dollars into these private insurance programs, these private HMOs, and private HMO executives have had grossly inflated salaries and benefits and retirements, all of that. Ending those gratuitous overpayments to HMOs should not be an option for this Congress; it should be an imperative that we finally do that.

Taxpayers can't afford to coddle private, for-profit health maintenance organizations, and we can't continue to do it. I encourage my colleagues to vote for the very crucial Baucus Medicare legislation.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, you don't have to be an expert in health care policy to know that our health care system is in need of reform. Today we spend \$2 trillion on health care or almost \$7,500 per person. In 10 years, national health care spending is expected to reach \$4.3 trillion. That is more than double or \$13,000 per person, which would comprise almost 20 percent of our gross domestic product. Clearly, this rate of growth is unsustainable. While we should be enacting legislation to address this health care crisis, Congress is once again bogged down in debate over how to prevent physician payment cuts from going into effect. Meanwhile, the sustainable growth rate, the SGR, which is the formula for these Medicare payments to physicians, has only increased costs, decreased beneficiary access and quality of care, and discouraged future generations of physicians, especially in primary care.

If Congress fails to act, Texas physicians will lose \$860 million between July 2008 and December 2009. That is \$860 million which is a cut of \$18,000 per Texas physician. That figure balloons to \$16.5 billion by 2016, due to nearly a decade of scheduled cuts. It is great that Members of Congress and outside coalitions are presenting health care reform plans, but they are ignoring the fundamental problem. You can have a great plan. You can have great coverage. But none of that is any good unless you have access to that coverage.

Physicians' reimbursement cuts have been looming over our heads for years; in fact, since 1996 and the passage of the Balanced Budget Act. Yet Congress continually decides to put off for tomorrow what desperately needs to be done today. So every year Congress

cuts segments of health care services, either rightly or wrongly, to prevent these cuts. I firmly believe—and physicians in my State firmly believe—that short-term fixes are not the solution. This last one was a 6-month fix which will expire shortly. I don't know anyone else in the private sector, whether they be a physician or a small business, who can continually plan based on the vagaries of a 6-month fix, without knowing whether they will simply be put out of business or what the Congress will come up with as a solution on a 6-month basis. We need a longer term solution, in other words. We can't address greater health care costs until we fix the mess caused by the SGR or the sustainable growth rate formula for Medicare reimbursements.

Over 3 months ago, in anticipation of the looming physician payment cut set for July 1, I introduced legislation that addressed the issue at hand permanently. Even the proposal we will vote on at 3 is only good for 18 months. I think we need a permanent solution. My legislation is entitled Ensuring the Future Physician Workforce Act of 2008. It provides positive reimbursement updates for providers. It eliminates the ineffectual expenditure cap known as SGR, and it increases incentives for physician data reporting. At the same time this bill facilitates the adoption of health information technology by addressing costs and legislative barriers. It educates and empowers physicians and beneficiaries in relation to Medicare spending and benefits usage and studies ways to realign the way Medicare pays for health care.

My bill doesn't mandate whether physician payments should be based on utilization, performance, care, coordination, or any other particular methodology. My bill does start to lay down a new path toward reform, innovation, and restoration of the eroded physician-patient relationship. It does say that providers and beneficiaries should not be the ones to be punished by Congress's inaction.

Why Congress decided in 1996 to try to balance the budget on the backs of health care providers is beyond me. Because beyond the challenges that presents to the health care providers, it has diminished access to health care. More and more physicians refuse to take new Medicare patients, because the reimbursement rates are simply so low. In Travis County, where Austin, TX is located, there was a story published in the Austin American Statesman that said only 18 percent of physicians in Travis County are accepting new Medicare patients. I would like to say that was an isolated incident, but it is not.

This is a huge issue and deserves serious and thoughtful deliberation. The last time the majority party held a hearing on physician payment reform was almost 16 months ago, almost exactly a year before I introduced Ensuring the Future Physician Workforce Act of 2008. Yet there has been zero leg-

islative activity, let alone introduction of language addressing this critical issue from a long-term perspective. Again, we have been stuck in the same old rut of coming up with temporary fixes, including the 6-month fix that will expire on July 1.

I am disappointed in Congress's inaction in this regard. I do believe that Congress needs to do more than simply kick the can down the road for another few months and put off a solution that we ought to be working toward on a bipartisan basis and embracing today.

My colleagues on the other side of the aisle have missed a major opportunity to take positive steps forward. They presented a bill, unfortunately, on which we will vote at 3 o'clock, that bypassed the committee, ignored the importance of bipartisan input and contribution, and they are determined to have a vote on a bill that they know has no chance of becoming law. Because as we all know around here, no bill has a chance of becoming law unless it is truly a bipartisan product. The rules and traditions of the Senate guarantee that. That is one of the things that makes sure that when we vote on things, they have broad support, represent a consensus position, and that they are, in the view of the vast majority of Senators, in the best interest of the American people. But when you try to force a bill that is strictly partisan, that has very little bipartisan support, we know what will happen. That is what is going to happen this afternoon on this vote: It won't become law.

The American people were promised a different way of legislating by the majority when they took power. But we have seen, unfortunately, this sort of gamesmanship occur time and time again. I heard Senator SCHUMER, the Senator from New York, chairman of the Democratic Senatorial Campaign Committee, rail against obstruction of their legislative agenda. But it is almost a sure thing, when all you do is take a partisan position on legislation and you refuse, as the majority leader has done, to allow an amendment process, as he did last week on the climate tax bill, and you deny full and fair debate, it is virtually a guaranteed result of failure when you take that sort of approach to legislation. That is what is going to happen again this afternoon.

Because the chairman of the Finance Committee has chosen to take a partisan approach on this legislation, we have come up with an alternative that offers solutions to physicians, seniors, and taxpayers. This alternative will provide doctors with a positive increase in their reimbursement rates, extend critical programs, and reform payments to Medicare Advantage plans, and also implement many other necessary changes to the Medicare Program. This alternative legislation includes provisions for e-prescribing, closely mirroring legislation I cosponsored earlier this year.

We need to change our ways in the Senate. Rather than trying to check

off a box saying, yes, we threw it up, a partisan effort we knew was going to fail, and now we can claim we were the champions of reform, while the ones who would not allow this partisan process to go forward are obstructing it, we need to get together and work in a bipartisan way to ensure that Medicare beneficiaries not only have the coverage they need and deserve but also the access which is guaranteed by a fair rate of compensation for physicians.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Vermont.

HABEAS CORPUS

Mr. LEAHY. Mr. President, while I was chairing a Judiciary Committee meeting today, I received notice of the Supreme Court's ruling this morning in *Boumediene v. Bush*. I normally do not come to the floor to talk about Supreme Court rulings, whether I agree or disagree with them, but this one is of fundamental importance to all Americans, and I wish to take just a moment.

We Americans know there is nothing more fundamental than the right of habeas corpus—the right to challenge your detention by the Executive as unlawful. It was part of our reason for fighting a revolution. It is enshrined in our Constitution. We have preserved it through two world wars. We cherish it as something that has set us apart from so many other countries around the world.

This administration has tried repeatedly to push the limits of Executive power, including its effort to extinguish the Great Writ for certain detainees. In three separate decisions, a conservative U.S. Supreme Court in recent years has rejected this administration's erosion of fundamental rights. I applaud the Supreme Court for doing that because these protections set the United States apart from those who wish to harm us.

Today's decision repudiating the administration's efforts to curb judicial review of detainees echoes earlier court decisions that have solidified our constitutional system of checks and balances.

The administration has rolled back essential rights that have long guided our Nation's conscience. The administration has acted as though the President—and the President alone—can decide the rights of Americans.

But the Great Writ has kept us strong as a nation from the time we fought a Revolution. We fought that Revolution to say that we will protect our own rights and we will set up three branches of Government to do so, including an independent Federal judiciary.

Today's Supreme Court decision in *Boumediene v. Bush* is a stinging rebuke of the Bush administration's flawed detention policies. It is also a vindication for those who have argued from the beginning that it was unwise as well as unconstitutional for Congress, at the administration's request,

to try to override a core constitutional protection.

A majority of the Court has ruled that the constitutional right to habeas corpus extends to territories, including Guantanamo Bay, Cuba, where the United States exercises de facto control. The Court further held that the administration's detention procedures used at Guantanamo Bay are a constitutionally inadequate substitute for habeas corpus rights. Therefore, the provisions of the Military Commissions Act that stripped away the habeas rights of detainees held at Guantanamo Bay are unconstitutional.

As a result, those detainees who have been determined to be "unlawful enemy combatants" are entitled to seek habeas relief in Federal courts, just as they had been doing before Congress' ill-advised decision to endorse the administration's detention policies through passage of the Military Commission Act in 2006. No detainee is set free as a result of this decision. Rather, detainees will simply be able to challenge their detention before a neutral, life-tenured judge.

The Court's 5-to-4 decision sustains the long held and bipartisan belief that I and others have always maintained: Congress made a grave error when it voted to strip habeas corpus rights in the run-up to the 2006 mid-term elections, and leave in place hopelessly flawed procedures to determine whether detainees could be held indefinitely with no meaningful court review, merely by the President's decree.

I have said many times on the floor of this Senate that we are the conscience of the Nation. Certainly, part of our job is to uphold our Constitution. It is easy to uphold our Constitution when we see no threats on the horizon. It is more difficult but even more important to uphold it when we do see threats on the horizon. So Congress, as I said, made a grave error in trying to diminish habeas corpus, and I am gratified that today's Supreme Court decision takes a significant step in reversing that action.

Mr. President, the Great Writ—the Great Writ of habeas corpus—protects you and protects me. It protects all 300 million Americans. It protects people who look to the United States to be a beacon of freedom. I am grateful that the Supreme Court believes, as I do, that this fundamental right must be preserved.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ENERGY

Mr. COLEMAN. Mr. President, I rise to speak about the rising cost of energy, at a time when Americans are

suffering from gas prices that are seeing \$4 a gallon and diesel fuel is higher than that. The price of diesel fuel has gone up 65 percent from where it was a year ago. That impacts farmers, it impacts small businesses. The Medicare bill is a critical issue, but right now we need to address the impact the cost of gas and energy is having. It is having a devastating effect on folks as they sit around the dining room table trying to figure out how to make ends meet. It is getting tougher and tougher to find money for food and fuel. I wish to say up front that the principal culprit right here is our addiction and our dependence on foreign oil.

My folks in Minnesota—families, farmers, and businesses—can't afford these rising costs. They are talking about commodity prices rising. On the other hand, the cost of commodity prices is rising because of the cost of oil. The cost of energy, gas, and diesel on those folks who are producing the food is having a devastating impact.

My State has one of the highest housing foreclosure rates in the Nation. The State of Minnesota is always seen as being somehow outside the economic woes that affect so many. The unemployment rate is going up, not down. Record fuel costs are the final straw for a lot of folks. It should be the final straw for partisan bickering on energy that is getting us nowhere and is letting the American people down.

Mr. President, 232 years ago yesterday, Thomas Jefferson, John Adams, Benjamin Franklin, and other Founders were set to work by the Continental Congress on a document that set America on a new course, just as the American Army was retreating from the British to Lake Champlain.

The invasion we have today is the invasion of hundreds of billions of dollars of foreign oil. This year nearly a half a trillion dollars will be sent overseas for energy we should be capable of producing at home. This is America. We should have the technological ability, the capacity, and the resources to end that addiction. The fact is we are being held hostage by a world oil market where much of the supply is controlled by thugs and tyrants such as Chavez and Ahmadinejad.

Just as the Founders, we have a choice. We can focus on our differences as Republicans and Democrats or we can work together to fight a common foe. Are our differences greater than those of the colonists, most of whom had never been outside their home States? We know that is not true.

Now is the time to write our own declaration of independence. Now is the time to use every resource at our disposal to address this energy crisis.

Now is the time for us to declare that American freedom, liberty, and security are not going to be held hostage over a barrel of oil. That is what it is about. It is about being held hostage. We may in the future always import foreign oil, but we are being held hostage by our dependency.

Our Nation's future depends on the decisions we make right now. The good news is that we possess the resources to take our energy prices head on. If we were, in fact, to make that commitment, we could stand up and say we are not being held hostage anymore. July 4 is just around the corner. If we were to do that, I think it would have a dramatic impact on speculation because they would know America is now committed—Democrats and Republicans—to doing the right thing. It is simple: renewables, increased production, and redoubling of our clean energy technologies efforts.

To make this happen, we not only have to transform how we do energy in this country, we have to transform how we do business in the Senate.

On Tuesday we had a contentious vote on an energy package that wasn't a bipartisan product. I voted to go forward on the debate of that package because I believe we must get going on a new energy bill. However, I think the only thing yesterday's process was set up to deliver was finger pointing. We must sit down together, Democrats and Republicans, and find out what policies we can agree on and then send an energy bill to the President.

The energy bill proposed by the other side of the aisle includes many ideas we have seen before. I am reminded of a quote by H.L. Mencken, who wrote:

There is always a well-known solution to every human problem—neat, plausible, and wrong.

I believe we need to stop rehashing ideas that don't get to the heart of the problem and begin an energy revolution by dramatically increasing production of every energy resource at our disposal. I still don't support drilling in ANWR. We have the opportunity, though, to do deepwater exploration off the Outer Continental Shelf and tap into substantial resources. That is increased production. We had the worst natural disaster in the history of this country, Hurricane Katrina, and there wasn't a drop of oil spilled, so there shouldn't be an environmental issue there to increase production. We need to dramatically increase investment in renewable fuels. I support that. It is critical to my State. Energy efficiency, boost nuclear energy production, and take advantage of coal to liquids—coal to jet fuel.

This week I have been listening to my colleagues speak about energy. Some say what we need is more efficiency. The others say we need more renewables in nuclear, oil, and gas development. I believe we need all of those sources of energy. I don't think our debate should be about whether to drill or whether to tax those who drill. You are not going to increase production by simply taxing the oil companies. That is not going to solve the problem. It may make a political point somewhere, but it is not going to solve the problem. Instead, I believe the answer to breaking through our energy crisis and our political energy logjam

is to couple domestic oil and gas development with responsible environmental protection—you can do both—to fully utilize the clean energy technologies at our disposal, such as nuclear, while we look to emerging technologies, to grow more fuel on the farm and save energy at home. We need to move forward with at least the potential of cellulosic ethanol.

Today I have introduced an energy bill, the Energy Resource Development Act of 2008, that I hope will foster the bipartisan discussion we need to have. It is not about holding my idea of the perfect energy bill in the air, pointing a finger and saying: This is what they won't do. No, this bill is about asking the other side what we might be able to do together.

Here is what I think we can do together: We could open the Outer Continental Shelf to oil and gas development outside of Florida in a way that protects the economy, the environment, and the economy of States in new development areas. There is an estimated 2.8 billion barrels of crude oil and 12 trillion cubic feet of natural gas that could be produced between now and 2025 in areas currently under moratoria. If developed, this could reduce America's trade deficit by \$145 billion by offsetting oil imports.

We must open development in a way that recognizes that many States are opposed to opening development in the Federal waters off their coasts, which is why my bill does not allow the Federal Government to allow development unless the State's Governor approves of the plan. And, to get the discussion going between the Secretary of the Interior and the Secretary of Defense and coastal Governors, this proposal will give the Governors an opportunity to make a counterproposal and to propose long-term protection of Federal waters off their shores. The Federal Government can then accept this proposal and begin negotiation with the Governor. The idea is to move past the take-it-or-leave-it approach to Outer Continental Shelf development and provide States the authority and process they need to make a deal that protects their economic and environmental interests.

My bill would require that an oil company holding an OCS lease develop the oil and gas on that tract in a reasonable timeframe or lose the right to develop that area. Existing leases that come up for renewal will face the same limitation.

No. 2, this proposal would create an energy independence trust fund to be funded with the Federal share of additional royalties that would be collected when more of the Outer Continental Shelf is opened for development. This trust fund, which could receive tens of billions of dollars from new royalties, would go to fully fund all renewable energy, energy efficiency, research and development, and technology deployment programs from the Energy Policy Act of 2005 and the Energy Independence Security Act of 2007. We have

made a big commitment to new technology in past energy legislation. This is a way to fund it. This would make sure programs we already have on the books to develop technology such as fuel cells, hybrid vehicles, solar, wind, advanced batteries, building efficiency—the list goes on and on—are fully funded. We want to make sure they are fully funded.

Additionally, the fund will provide resources for a new ethanol pipeline loan guarantee program and provide new nuclear energy production incentives.

No. 3, the bill would utilize our 250-year supply of coal by creating a new standard of production of fuel from clean coal, often called coal-to-liquid technology. My bill would take a new approach by tightening the environmental standards required of this fuel.

No. 4, my bill would recognize the fact that nuclear energy is one of America's energy solutions as it provides an affordable, zero-emissions source of energy. The French are not braver than we are. Close to 90 percent of their energy is nuclear. This proposal will improve the loan guarantee for nuclear production, create a nuclear production tax credit, and increased training for the nuclear workforce.

I believe these measures do a great deal to address our current energy crisis. But I promise my colleagues I am open to their ideas and initiatives as well. The only thing I am not open to is more political gamesmanship and bickering.

The American people want and need bipartisan energy legislation that goes to the root causes of our energy problems. I urge my colleagues to consider this proposal. I urge my colleagues and leadership on the other side of the aisle to sit down with a bipartisan coalition. I urge all of us on my side of the aisle to sit down and put together a bipartisan coalition that will produce a bill that truly transforms how we do energy as we, as Senators, work together for the American people.

That is what they are looking for right now. They are frustrated. They are scared. They are facing economic stress. They are looking to us. We have a responsibility to put the gamesmanship aside, put the ideological divide aside, and figure out a way—can't we do renewables? Can't we do conservation? Can't we do production? It doesn't mean drilling in every corner of the universe.

If there ever was a moment for us to come together as a nation to protect and preserve our freedom and our liberty, that moment is now.

Mr. President, I yield the floor and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. 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. CHAMBLISS. Mr. President, I ask unanimous consent that I be allowed to speak for up to 7 minutes. I know it is unusual, but I ask unanimous consent that the time be charged to the Democrats.

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

Mr. CHAMBLISS. Mr. President, I rise today to speak on the issue of Medicare reimbursement for doctors. Doctors are reimbursed through Medicare by a formula known as the sustainable growth rate, SGR. Due to the formula's methodology, it has mandated physician fee cuts in recent years. This has forced Congress to place a band-aid over the possible cuts that doctors and their practices have hanging over their heads.

So every year, or now 6 months, doctors must come to Washington, DC and plead with their Representatives and Senators to pass legislation that will allow them to receive the adequate Medicare reimbursement they need.

Medicare reimbursement is already well below the actual cost of providing patient services, and physicians tell me every year that if these cuts go into effect, they will be faced with the tough decision of either laying off employees or no longer treating Medicare patients, or both.

Oftentimes, we in Congress wait until the last possible moment of each year to pass legislation that will provide these physicians with their much-needed relief. While we all know that there is a need to replace the current SGR formula, this afternoon I want to focus on the relevant legislation pending before the Senate.

The bill before the Senate would alleviate the 10.6 percent physician fee cut and replace it with a 1.1 percent increase over 18 months. I support this element of the legislation and believe that an 18-month fix will not only keep physicians from worrying that their reimbursements will be cut, but will also give Congress time to look at possible alternatives to the SGR.

However, I do not agree with other aspects of this legislation. First and foremost, the President has threatened to veto this legislation. In December of last year, we passed legislation that would remove the SGR cuts until June 30 of this year.

Even if this legislation had overwhelming support, which it does not, the process of this bill passing both Houses, getting vetoed by the President, and returning for a veto override would be quite a feat to accomplish in 18 days, and simply cannot practically happen.

Second, this legislation expands entitlement spending such as the Part D Low-Income Subsidy and Medicare Savings Program. While these are good programs, I do not understand why we would expand these programs when there are already significant numbers

of seniors who are eligible for the programs at current levels but are not enrolled.

This is not the time to expand entitlement spending when it is already out of control and unsustainable.

Here we are trying to put a bandaid on reimbursement to our doctors and, at the same time, talking about additional expenditures in Medicare, so that the next year when we come back, it is going to be even harder if we don't have a permanent fix to use this bandaid approach for physicians and hospitals.

Third, this legislation reduces access to Medicare advantage plans.

These plans aren't perfect, but Medicare Advantage has been the one reform in the Medicare system we have seen that works. It needs some modification to it, but the fact is it is working.

These plans, which are approved by Medicare, save beneficiaries an average of \$86 per month compared to premiums in traditional fee-for-service Medicare. They have been especially important in enrolling low-income and rural beneficiaries.

We should have learned from past congresses' mistakes that cutting payments to Medicare advantage plans results in them being forced to drop seniors. In my home State of Georgia, more than 138,000 beneficiaries rely on these plans.

Senator GRASSLEY has introduced alternative legislation that would provide physicians with the exact same 1.1 percent fee increase that is included in the pending legislation. And it would do this while eliminating duplicative indirect medical education payments to Medicare advantage plans, making reforms to curb controversial and abusive Medicare advantage marketing practices, and spending 25 percent less than the pending legislation.

Most importantly, this alternative legislation would not be vetoed by the President and could be signed into law before the July 1 deadline. Unfortunately, the majority will not allow us to bring this legislation to the floor. I hope that decision changes.

Doctors and seniors deserve a serious and responsible effort that addresses the impending fee cut without playing politics, cutting essential services, and creating a major expansion of entitlement spending.

It is my hope that Congress will work toward a bipartisan agreement that will provide doctors with the relief they need before July 1. With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I am pleased to join Chairman BAUCUS in sponsoring this bipartisan legislation, which both abrogates severe cuts to provider payments, and also takes steps to reform Medicare spending to address the distressing fiscal trajectory of this critical health entitlement.

The bill before us today represents a product of what has become an annual—and recently a semiannual

task—that of extending Medicare financing. It is a sad state of affairs when we see two Medicare bills emerge from the Finance Committee. For months Chairman BAUCUS and Ranking Member GRASSLEY have worked to build consensus on Medicare—just as they did last year. In fact, their reputation for bipartisanship is legendary.

Ranking Member GRASSLEY saw that we achieved the landmark benefit that is in part enhanced in this bill—the coverage of prescription drugs under Medicare. I have long regarded his leadership so highly, and I am confident that—as this debate continues—we will see him forge agreement to address critical Medicare issues because of his bipartisanship.

And in fact—but for intransigence to compromise from the administration last December—we would not need to be here today debating these issues. But instead only a 6-month extender bill could be enacted—and now our providers and beneficiaries face cuts on July 1.

The fact is, that just a few weeks ago, with compromise achieved on so many issues, we appeared to be separated by approximately \$3 billion in spending directed to beneficiaries. The fact is, that amount of funding represents less than what should be committed to meet critical needs of our most economically challenged beneficiaries, and it represents less than two-tenths of 1 percent of total Medicare spending. And under this legislation, these funds would be obtained from fiscal savings which Medicare must begin to realize. Not from taxes. Not from deficit spending.

And as we debate this difference between these two Medicare bills, we must enact sound fiscal policy—not ideological dogma. As CBO has told us repeatedly, the factors of an expanding senior population—and more significantly, as this chart illustrates, a rise in per capita health care spending—are working together to make Medicare the number one fiscal concern on the horizon. So it is critical that we take substantial steps to ensure the fiscal health of Medicare for future generations.

It was an attempt to do so which set us on this course. The creation of the sustainable growth rate formula—or “SGR”—was originally intended to serve as a limiter of spending, and it did so effectively for a time. Yet, today, the SGR operates crudely and irrationally to simply restrain payments to physicians. Next month, without intervention, physician payments will be reduced 10.6 percent. Yet it is also essential to recognize that these annual Medicare bills encompass more than just the SGR. A number of other programs are renewed on this same schedule. We call these “extenders” and they represent critical parts of Medicare—including items such as assistance to low income beneficiaries and programs which support rural

health delivery—and they face termination without our action.

As we consider this bill today, it must be viewed in the light of how it will address two crucial issues. First, does it fairly assure reasonable payments to those who serve our beneficiaries to preserve access to care? And second, does it take action to change the course of health spending to help assure the fiscal security of Medicare—particularly when you see the growth and trajectory of growth in Medicare spending?

First, as it must, this legislation takes action to prevent a large reduction in payments to physicians. So too it enacts a number of critical extensions to programs critical to assure that beneficiaries will have secure access to health care.

We act to see that health centers receive relief from an artificial cap which prevents them from being fully reimbursed for the services they provide to beneficiaries. This bill grants some relief from that cap and is a step towards the reform which my legislation with Senator BINGAMAN would achieve to prevent health centers from serving Medicare at a loss.

In similar fashion this bill would ensure that pharmacies will be paid promptly for the medications they provide seniors under the Part D drug benefit. And just as critical, we assure that Medicaid payment policy does not discourage the dispensing of generic drugs through inadequate reimbursement.

And as we avert a pending physician payment cut it is unconscionable that we would leave the most vulnerable beneficiaries behind. In passage of the Medicare Modernization Act in 2003, we worked in a bipartisan fashion to assure that our most vulnerable beneficiaries would receive a low income subsidy, LIS, to provide extra assistance with drug costs. Today, a beneficiary qualified for full LIS support must have income below 135 percent of the Federal poverty level and assets not exceeding \$7,790 for an individual and \$12,440 for a married couple.

Yet, our Medicare Savings Plans—which assist very low income beneficiaries outside of Part D—utilize a very different assets test standard—just \$4,000 for an individual and \$6,000 for a couple—despite even more stringent income standards. In fact, the Qualified Medicare Beneficiary—Quimby program—enacted in 1988—has not seen an update in the assets test over two decades. Were the amount to have been indexed to a measure of inflation such as the Consumer Price Index, today that amount would nearly equal the assets limit for full Low Income Subsidy under Part D. So it is common sense that we align the assets tests for Medicare savings program with the full LIS limit so that truly needy seniors will realize the help we intended. We act to index these asset tests to inflation, and critically, extend outreach including through the

Social Security Administration. These provisions represent long-overdue corrections—not an entitlement expansion.

As I stated earlier, this bill should also help us to change our spending trajectory. Because what we spend is in fact more critical to Medicare's fiscal health than even the aging demographics of our population, this legislation aims to help re-orient our spending to assure that Medicare implements more "best practices," beginning with greater support for preventive services. This follows what we began with the enactment of the Medicare Modernization Act in 2003.

This bill allows the HHS Secretary to add support for services recommended by the U.S. Preventive Services Task Force. This is a key step in payment reform. Because the fact is, we can no longer expend our first dollar on a disease for an individual's hospitalization. We must be more proactive and cost effective.

Similarly, we address the inequity of access to mental health services. Today, beneficiaries pay 50 percent of the cost of outpatient mental health services—compared to 20 percent for other care. So as the Senate acts to ensure mental health parity in the private sector, we must not leave our beneficiaries behind. Tragically, only half of seniors with mental health problems receive treatment, and the toll is seen in the fact that suicide rates among older Americans far exceed those of other age groups.

This legislation includes provisions of legislation that I introduced with Senator KERRY and accomplishes a phased-in elimination of the copayment disparity.

This legislation takes a balanced approach, one which averts unfair cuts to providers, and meets the critical needs of our most vulnerable beneficiaries.

Then one could rightly ask: Why are we here? If there was some agreement on such priorities, what is the obstacle?

The answer to that question, as it is so often, lies in how spending is paid for. Today, as we consider legislation affecting provider payments in particular, the issue of equity is central. When equity is considered, the subsidies of private plans in Medicare constitute an issue which must be addressed.

Today we are subsidizing such private Medicare plans by paying an average of at least 112 percent above the rate of traditional fee-for-service Medicare. Last year, the 5-year subsidy cost was estimated at \$50 billion over 5 years. This year, we have already received revisions of cost projections which may indicate the total cost is much higher.

One might ask why, at a time when we are concerned about the fiscal health of Medicare and when we face critical needs, such as those of the lowest income beneficiaries, would we spend this sort of subsidy?

The Chairman of the Medicare Payment Advisory Commission, Glenn Hackbarth, succinctly stated the problem last year when he stated that "right now, Medicare is sending the signal that we want private plans even if they cost substantially more than the traditional Medicare." He added:

I think what we need, not just in Medicare, but in the country more broadly, is to send the signal that we want plans that more efficiently manage care.

I think we have an agreement that we expect these plans to deliver value for beneficiaries and taxpayers alike—to employ prevention, early screening and detection, and prompt effective care to improve health and reduce costs.

Yet what we have seen in Medicare Advantage is deeply troubling. First, there is the paucity of data regarding outcomes. This chart quotes the CBO Director Orszag, who decried the absence of substantiation of performance, stating he was "continuing to beg" for data from plans demonstrating performance. He noted the subsidies these plans enjoy. He said:

It's almost as if they're conducting a variety of experiments in disease management and various other things. And they are doing so with public subsidies.

Yet while the average Medicare Advantage plan receives a subsidy at least 12 percent above traditional Medicare, a new plan type receives much more, as much as 121 percent of fee-for-service rates. These private fee-for-service plans primarily involve a redesign of the Medicare benefits package. So a beneficiary might initially see a plan as offering better value, such as offering vision benefits. Yet while private fee-for-service plans must cover the same benefits as fee for service, they can substantially alter a senior's cost sharing so one's out-of-pocket costs can be much higher.

But the enticement of new benefits and aggressive and even abusive marketing practices, as we learned in a number of hearings—I know, Mr. President, you were there at some of those hearings in the Senate Finance Committee—has resulted in explosive growth in these plans.

As we see on this chart, it demonstrates the increased enrollment from less than 26,000 beneficiaries in 2003 to 1.5 million at the beginning of this year. So far this year, another 400,000 beneficiaries have enrolled.

I am pleased we have seen bipartisan agreement to address the grievous marketing abuses which have plagued beneficiaries. Many of our constituents have been confronted in their homes by high-pressure, door-to-door, and telemarketing sales efforts. We have seen seniors enticed to events by free meals and gifts and frequently enrolled unknowingly in new plan coverage they neither needed nor wanted. Much of this has been fueled by high commissions.

Such abuses led me to introduce a bill with Senator ROCKEFELLER in

March to ban these practices and protect beneficiaries. In fact, I can say my State of Maine has been in the forefront passing legislation on its own. States are taking unilateral action to foreclose these practices that get people to join plans unnecessarily and adding to their costs and their problems.

The legislation Senator ROCKEFELLER and I introduced has provisions that will include prohibitions on the activities I described earlier.

It is abundantly clear such plans not only cost more and are plagued by marketing abuses, but they lack the mandates which HMO and PPO plans carry to actually act to improve care. In fact, the Congressional Budget Office Director, Peter Orszag, said again, "The type of things we are talking about—disease management, care coordination—is much less salient and much less prevalent in private fee-for-service."

Also, because private fee-for-service plans are not required to establish contracted networks of providers, such plans use deeming, a practice in which, by serving a patient, a provider is deemed to have accepted the plan's terms. That shortchanges providers. Since these plans are also not required to provide care management, they shortchange beneficiaries. So we are paying more through subsidies and they are providing less and are capturing them through the deeming process, which is inherently unfair and extremely costly.

With these deficits, private fee-for-service plans require subsidies to function, and today they are paid far more than the traditional fee for service—which I mentioned earlier—and are a large and growing share of Medicare Advantage costs. They are subsidized, as I said, as much as 121 percent above the rates Medicare was paying local providers before this so-called innovation.

So as we see an escalation in the cost of subsidizing Medicare Advantage, it is wholly appropriate that we examine a reduction in unfair subsidies to these plans, subsidies that are provided by the taxpayers.

We recognize, as does the administration, that built into these higher Medicare Advantage rates is a duplication of the institutional medical education payment which institutions already receive directly today. The cost of that duplication was estimated at \$8.7 billion earlier this year. Yet today, with rapid growth in these plans, the Congressional Budget Office tells us the cost of the unnecessary subsidy is now an estimated \$12.5 billion. The fact is, that estimate does not reflect a deeper rate of reduction than we discussed 6 months ago. It simply reflects the escalation in costs as a growth of these subsidized, uncompetitive plans continue.

So as we examine areas in which we could save, there can be no doubt that the duplicate payment is a prime candidate. In fact, the Medicare Payment

Advisory Commission, MedPAC, recommended we bring all Medicare Advantage plans to parity and specifically recommended eliminating this duplicate payment, as indicated by their comments on this chart.

On the latter recommendation, the President has agreed we must eliminate the duplicate payment. I note the President included a proposal in his budget this year to eliminate it, but he has imposed reductions which would affect the rate of reduction we have now discussed, which would reduce subsidy spending by \$12.5 billion. The President also prefers to eliminate payments to the institutions responsible for this Institutional Medical Education Program and instead would rely on plans to funnel payments to teaching institutions. Although we differ with him in terms of how to eliminate the duplicate payment, reducing the plan subsidy for this savings is reasonable, and agreement should be possible.

As I said earlier in my statement, it is a difference of \$3 billion, and therein lies the difference in the subsidy. The Congressional Budget Office recalculated the original cost of savings of achieving this reduction in the Institutional Medical Education Program earlier this year at \$8.5 billion. They recalculate to \$12.5 billion. You say: Why won't the President support that now? It is the same savings, the same plan. It has been recalculated, and we achieve greater savings in order to offset the additional provisions we provided for the lowest income beneficiaries. So it seems to me this is an area in which we should achieve agreement. If we agree we should eliminate the duplicate payment—and it has now been estimated in savings from the Congressional Budget Office at \$12.5 billion instead of \$8.7 billion—we ought to be able to agree on the pending legislation.

This legislation effects a second savings in Medicare Advantage by eliminating deeming wherever two managed care plans have succeeded in establishing networks. It simply makes sense that if managed care plans can contract providers, these private fee-for-service plans should as well.

By reducing the duplicate IME payment by \$8.7 billion and modifying the deeming provisions for plans, this legislation realizes \$12.5 billion in savings. Still just less than one-fourth of the current Medicare Advantage subsidy cost.

I note these savings fall far short of the fiscal responsibility which MedPAC, the Congressional Budget Office, and others suggest is absolutely necessary and vital. Yet some still claim these savings jeopardize Medicare Advantage. But the fact is, they are modest in terms of changing an environment which is both fiscally irresponsible and anticompetitive.

For those who suggest subsidies should be maintained, they must answer some critical questions: When will these plans be economically viable?

When will savings be realized by the taxpayers who are providing these subsidies to private insurance companies, in fact, far more than the traditional fee for service? When will more effective care be demonstrated? Again, they don't provide for prevention, effective disease management, screening or many of those tests that are so essential today that a provider in traditional fee for service, and yet not under these private plans, who are getting paid more than what we pay under fee for service in Medicare. What costs must the rest of Medicare bear as a result of these anticompetitive subsidies?

The fact is the limited savings we accomplish in this legislation do not even threaten the continued operations of these uncompetitive plans. Even Wall Street knows that. I note in this final chart that an analyst for Goldman Sachs actually stated that savings exceeding those we make here do not affect the viability of these plans and that the Medicare Advantage Programs actually could "absorb \$15 billion in cuts over 5 years without materially undermining the fundamentals."

As I said earlier, we are using \$12.5 billion, not even \$15 billion, and they are saying it would have no negative impact on those private programs.

Further, we should, in fact, be fostering competition. In fact, that is what it was all about originally, providing those subsidies so there would be some competition. Business will respond, they said, and thereby achieve some of the objectives on which these plans were predicated.

There is always political risk. As Simon Stevens of United Health Care noted, "There is always political risk in government programs," he said, "but we will weather it by evolving as Medicare evolves."

There are urgent Medicare financing needs today which must be met. We must fix the physician payment formula. We must reform Medicare to see that care is improved and beneficiaries and taxpayers receive better value. We have so much more to do. Yet here we are being stymied by a difference of less than two-tenths of 1 percent of Medicare spending, that all is accomplished by reducing the subsidies to private health insurance companies. That is the difference in the pending legislation and those who object to it.

This legislation, in fact, reflects many issues on which we have had bipartisan agreement. It bridges the critical gap between us in considering the vital and essential requirements of beneficiaries, by taking actions to see best practices emphasized and low-income assistance standards are at least updated for inflation. It also acts to see that Medicare policies are not penny-wise and pound-foolish.

I hope we will see this very modest compromise on this legislation that will produce progress for the providers, for current beneficiaries, and for generations to come to achieve the savings we think is essential—and it is offset

because we think that is the fiscally responsible approach to take—and also not to skew disproportionately the subsidies we are providing to private health insurance companies for private fee for service, for both to work in a competitive fashion, and what we are seeing are subsidies growing by leaps and bounds.

To reach that compromise, we have to support this legislation. Hopefully, the Senate will express its support for sound fiscal policy. Hopefully, we can override the cloture. If that fails, I hope we can, again, come to together and resolve these differences and demonstrate to the American people that we have the capacity to solve problems at this very crucial juncture in our Nation's history.

Mr. SPECTER. Mr. President, this is a very important bill for reasons which I am discussing in this statement. I believe that it is vital for the Senate to take up this important measure to have open debate to give Senators an opportunity to offer amendments and to have the Senate work its will on these important questions.

As noted in previous floor statements, I have been concerned about the majority leader's practice of employing a procedure known as filling the tree, which precludes Senators from offering amendments. That undercuts the basic tradition of the Senate to allow Senators to offer amendments. Regrettably, this has been a practice developed in the Senate by majority leaders on both sides of the aisle, so both Republicans and Democrats are to blame.

I announced publicly at a Senate Judiciary Committee executive session this morning, June 12, 2008, that I would vote with Senator BAUCUS for cloture if I knew the majority leader would not fill the tree. In a telephone conversation this afternoon, June 12, 2008, Majority Leader HARRY REID advised me that he would not fill the tree.

This will provide an opportunity for a full range of debate and decisions by the Senate on many important issues.

On the Medicare bill specifically, S. 3101 has a number of issues which are important to Medicare beneficiaries in Pennsylvania and across the Nation. Foremost of those issues is the prevention of a 10.6-percent reduction in the Medicare reimbursement for physicians. A decrease of this size could result in doctors limiting the number of Medicare beneficiaries they take on as patients or refusing to take them on as patients at all. To resolve this grave problem, the legislation prevents the scheduled reduction, continues the current .5 percent increase for 2008, and provides an increase of 1.1 percent for 2009. This is a needed increase that will improve access to physicians for seniors.

This legislation also contains an important provision to extend the section 508 wage index reclassification program. This program, established in the Medicare Modernization Act in 2003,

provides important funding for hospitals that have been disadvantaged by Medicare's wage index reclassification. This is of particular importance in northeastern Pennsylvania where hospitals struggle to meet the wages needed to keep employees from commuting to other areas which have a higher reimbursement rate. This is an important extension; however, a permanent solution is needed to solve this problem for all hospitals.

I am informed that the bill will include a delay in the Medicare durable medical equipment, DME, competitive bidding program. This is critical to western Pennsylvania, as it is one of the regions selected to begin the program. While competitive bidding can be productive in lowering the cost of medical equipment, the manner in which this program was implemented was unacceptable. During the competition for bids, half of the bids were disqualified, often for clerical problems. Further, the program is set to begin in just over 2 weeks and seniors have not been notified of these changes. This legislation will delay the implementation of this program to allow for the proper implementation of this program and correction of these problems.

I am also informed that the bill will include a provision to increase Medicare payments to oncologists and other physicians for the cost of patient treatment. Physicians are facing shortfalls in their reimbursement, especially pertaining to cancer treatment. This provision will provide an accurate and up-to-date reimbursement for drug costs, ensuring cancer treatment will be accessible to Medicare beneficiaries.

I am concerned about a change that this legislation makes in the ability of beneficiaries to purchase power wheelchairs. S. 3101 requires the rental of standard wheelchairs for 13 months instead of a physician determining if the beneficiary should purchase the equipment immediately. This provision removes the problem of purchasing wheelchairs for short term users but increases the cost 5 percent for the purchase after those 13 months. To insure that beneficiaries get the wheelchairs they need without overspending, a physician should be required to certify that a power wheelchair is needed for at least 13 months. I am confident as we consider this bill we can work out the differences we have and come to an agreement.

Mr. ENZI. Mr. President, today, we will continue to discuss the political exercise surrounding the Medicare "doc fix" bill. I am hopeful that after the vote this afternoon, bipartisan discussions can resume so that we can get a bill to the Senate floor that we can all support. While others have fully outlined all of the problems with the process and content of S. 3101—the Democrats version of the bill—I want to take the time to discuss a small aspect of the Republican version of the bill.

Just last week, I came to the floor to discuss Senator Thomas, acknowl-

edging that just over a year ago the State of Wyoming and our Nation lost one of the great cowboys ever to ride this land. Although a year has passed since Craig left us, his spirit is alive and it is felt by all of us within this body. Work he championed on behalf of Wyoming residents and all Americans is ongoing today. In fact, we continue to acknowledge his great work to improve health care in rural areas within the Grassley Medicare bill—the Preserving Access to Medicare Act.

There is a whole subtitle named after Senator Thomas with provisions to assist providers and patients in rural areas. These provisions will help keep the doors open for rural hospitals so that critical care is available. In addition, they will ensure that individuals in rural areas have the emergency transport services available to get them from the scene of an accident to immediate care, to expand access to laboratory services so one can quickly obtain test results for a potential cancer diagnosis, and to ensure greater access to telehealth capabilities at skilled nursing facilities and dialysis centers. These are just to name a few of the key rural health provisions. Given the work of Senator Thomas, I do hope that these provisions can be maintained in future bipartisan discussions.

Mr. CARDIN. Mr. President, I rise in strong support of S. 3101, the Medicare Improvements for Patients and Providers Act of 2008.

This bill merits the support of every Senator. Action on this legislation is mandatory now because, in 18 days, the temporary fix we passed at the end of last year for providers will expire. If we fail to act, reimbursements to physicians and other providers who are paid under the physician fee schedule will be cut by 10.6 percent.

On Tuesday, I met for over an hour with several physicians from Maryland. They cannot sustain a 10 percent cut in their Medicare payments, and they know that if these cuts are put into effect, many of their colleagues will stop accepting new Medicare patients into their practices.

These pending cuts are the result of a flawed system that pegs reimbursement to the growth of GDP. We all recognize that this system, known as SGR, does not work. Every year since 2001, Congress has had to act to prevent the cuts from going into effect. We know that SGR must be repealed.

I have introduced legislation in past years to eliminate SGR and replace it with a system that reimburses based on the actual reasonable costs of providing care. S. 3101 provides another temporary fix through December 31, 2009. That is sufficient time for Congress, working with a new administration and the provider community, to develop a new system of reimbursement that will contain unnecessary increases in volume while ensuring that reasonable costs are covered.

But this bill is so much more than a "doctor fix bill." Also expiring on June

30 is the exceptions process for outpatient therapy services. Therapy caps for physical, occupational and speech language therapy were added to Medicare law more than 10 years ago for purely budgetary reasons. The authors of that provision had no policy justification for limiting services, and the amount of the caps was purely arbitrary.

Unless the exceptions process is extended, seniors recovering from more complex conditions, such as hip replacement and stroke, will face unreasonable and arbitrary dollar limits on the rehabilitation services available to them.

This urgently needed legislation will help not just providers, but also the millions of seniors that Medicare was created to serve. This Senator is proud that the bill's title reflects the right priorities for Medicare—this is The Medicare Improvements for Patients and Providers Act.

The 43 million seniors and persons with disabilities who rely on Medicare deserve a program that meets their health care needs. Our goal should be to ensure that Medicare provides comprehensive, affordable, quality care. S. 3101 makes important steps toward a better Medicare.

It is significant that Chairman BAUCUS has led with important beneficiary improvements. In 1997, I worked in a bipartisan way to add to the Balanced Budget Act the first-ever package of preventive benefits to the traditional Medicare Program. That was 11 years ago. At that time, the members of the Ways and Means Committee recognized what medical professionals had long known—that prevention saves lives and reduces overall health care costs.

Preventive services such as mammograms and colonoscopies are vital tools in the fight against serious disease. The earlier that breast and colon cancer are detected, the greater the odds of survival. For example, when caught in the first stages, the 5-year survival rate for breast cancer is 98 percent. But if the cancer has spread, the survival rate drops to 26 percent. If colon cancer is detected in its first stage, the survival rate is 90 percent, but only 10 percent if found when it is most advanced.

Seniors are at particular risk for cancer. In fact, the single greatest risk factor for colorectal cancer is being over the age of 50 when more than 90 percent of cases are diagnosed. Sixty percent of all new cancer diagnoses and 70 percent of all cancer-related deaths are in the 65 and older population. Cancer is the leading cause of death among Americans aged 60–79 and the second leading cause of death for those over age 80. So preventing cancer is essential to achieving improved health outcomes for seniors. Screenings are crucial in this fight.

In addition to improving survival rates, early detection can reduce Medicare's costs. Under Chairman CONRAD's leadership on the Budget Committee, we have had fruitful debates about the

long-term solvency of Medicare. A more aggressive focus on prevention will help produce a healthier Medicare Program.

Let me give you some examples. Medicare will pay on average \$300 for a colonoscopy, but if the patient is diagnosed after the colon cancer has metastasized, the costs of care can exceed \$58,000.

Medicare will pay \$98 for a mammogram, but if breast cancer is not detected early, treatment can cost tens of thousands of dollars. One drug used to treat late stage breast cancer can cost as much as \$40,000 a year. There is no question that these vital screenings can produce better health care and more cost-effective health care.

The 1997 law established place improved coverage for breast cancer screenings, examinations for cervical, prostate, and colorectal cancer, diabetes self-management training services and supplies, and bone mass measurement for osteoporosis. Since then, Congress has added screening for glaucoma, cardiovascular screening blood tests, ultrasound screening for aortic aneurysm, flu shots, and medical nutrition therapy services. In addition, in 2003, a Welcome to Medicare Physical examination was added as a one-time benefit for new Medicare enrollees available during the first 6 months of eligibility.

But we can only save lives and money if seniors actually use these benefits. Unfortunately, the participation rate for the Welcome to Medicare physical and some of the screenings is very low. I have spoken with primary care physicians across my State of Maryland about this. One problem is the requirement to satisfy the annual deductible and copays for these services.

Patients are responsible for 20 percent of the cost of a mammogram, between \$15 and \$20. Most colonoscopies are done in hospital outpatient departments, where their copay is 25 percent, or approximately \$85. Our seniors have the highest out of pocket costs of any age group and they will forgo these services if cost is a barrier.

The other barrier to participation is the limited 6-month eligibility period for the one-time physical examination. By the time most seniors become aware of the benefit, the eligibility period has expired. In many other cases, it can take more than six months to schedule an appointment for the physical exam and by that time, the patients are no longer eligible for coverage.

I have introduced legislation to eliminate the copays and deductibles for preventive services and to extend the eligibility for the Welcome to Medicare physical from 6 months to 1 year. My bill would also eliminate the time consuming and inefficient requirement that Congress pass legislation each time a new screening is determined to be effective in detecting and preventing disease in the Medicare

population. It would empower the Secretary of Health and Human Services to add "additional preventive services" to the list of covered services. They must meet a three part test: (1) They must be reasonable and necessary for the prevention or early detection of an illness; (2) they must be recommended by the U.S. Preventive Services Task Force, and (3) they must be appropriate for the Medicare beneficiary population.

S. 3101, the Baucus bill, incorporates several elements of my bill in the very first section, and I want to thank the Finance Committee for including them. It will waive the deductible for the physical examination, extend the eligibility period from 6 months to 1 year, and allow the Secretary to expand the list of covered benefits.

These provisions are supported by the American Cancer Society, AARP, the Alliance for Retired Americans, the Leadership Council of Aging Organizations, SEIU, the National Committee to Preserve Social Security and Medicare, the American College of Preventive Medicine, the National Hispanic Medical Association, the American Academy of Nursing, and many more groups.

This bill will also help low income seniors by raising asset test thresholds in the Medicare Savings Programs and targeting assistance to the seniors who most need it.

As this Congress continues to make progress toward passing a comprehensive mental health parity bill, the Baucus-Snowe bill steps up for our seniors and provides mental health parity for Medicare beneficiaries, moving their copayments from 50 percent to 20 percent gradually over 6 years. Depression, bipolar disorder, and other mental illnesses are prevalent among seniors, and yet fewer than half receive the treatment they need. This provision will help them get needed services.

Section 175 of the Baucus bill will ensure that a category of drugs called benzodiazepines are covered in Medicare Part D. When the Medicare prescription drug benefit took effect on January 1, 2006, millions of beneficiaries found that the prescription medicines they took were not covered by the new law. A little-known provision in the Medicare prescription drug bill actually excluded from coverage an entire class of drugs called benzodiazepines. These are anti-anxiety medicines used to manage several conditions, including acute anxiety, seizures, and muscle spasms. The category includes Xanax, Valium, and Ativan. Most are available as generics.

They constitute the 13th leading class of medications in the U.S., with 71 million prescriptions dispensed in 2002. A study of dual-eligibles in nursing homes found that 12 percent of patients had at least one prescription for a benzodiazepine. This exclusion has led to health complications for beneficiaries, unnecessary complexity for pharmacists, and additional red tape

for the states. Beneficiaries who are not eligible for Medicaid have had to shoulder the entire cost of these drugs or substitute other less effective drugs. In 2005, I first introduced legislation that would add benzodiazepines to the categories of prescription drugs covered by Medicare Part D and Medicare advantage plans.

I want to thank Chairman BAUCUS for recognizing the importance of this coverage and adding section 175 to this bill. Without this provision, dual eligibles would have to rely on continued Medicaid coverage for benzodiazepines. Medicare beneficiaries who are not eligible for Medicaid will have to continue to pay out-of-pocket for them. For those who cannot afford the expense, their doctors would have to use alternative medicines that may be less effective, more toxic, and more addictive. This is a significant improvement for our seniors who are enrolled in Part D and for the fiscal health of our States.

The Baucus bill is paid for by slight reductions to the overpayments that the federal government makes to private health plans. The nonpartisan Medicare Payment Advisory Commission, MedPAC, has recommended that we equalize payments between Medicare Advantage and traditional Medicare.

As we discuss the solvency of the Medicare Program, we must take note that private health plans are not saving the Federal Government money. In fact, they are costing us money. I was a member of the Ways and Means Committee when health plans approached us with an offer. If the Federal Government would pay them 95 percent of what we were spending on the traditional Medicare Program, they would create efficiencies through managed care that would save the Federal Government billions of dollars each year. They promised to provide enhanced coverage, meaning extra benefits as well as all the services covered by traditional Medicare, for 95 percent of the cost of fee for service. Congress gave them a chance to do just that.

Instead, what we saw across the country was cherry-picking of younger, healthier seniors. Each time Congress indicated that it would roll back their overpayments to a more reasonable level, they responded by pulling out of markets. In Maryland, the number of plans declined over a 3-year period from eight to one, abandoning thousands of seniors. Since 2003, when payments were substantially increased, the number of plans has steadily increased as well, but at too high a cost to beneficiaries, taxpayers, and the future of the Medicare Program.

Right now, these plans are paid up to 19 percent more than the amount that we would pay if these seniors were in fee-for-service Medicare. Over 10 years, we are overpaying them by more than \$150 billion.

That is enough to make significant valuable improvements in the overall

Medicare Program, or to permanently repeal the sustainable growth rate formula. It is time, for the health of the Medicare Program, to pay these plans appropriately. This bill would make small reductions to these overpayments as well as prohibit the abusive marketing practices, such as cold calling, door-to-door sales, and offering incentives such as free meals, which have led to many seniors being enrolled in private plans without their knowledge or consent.

This is a balanced and responsible bill that addresses immediate reimbursement concerns while setting the foundation for a higher quality, more cost-effective Medicare Program. I urge my colleagues to support the motion to proceed to S. 3101 and to vote for this well-crafted bill.

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

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

The legislative clerk proceeded to call the roll.

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

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

TAXES

Mr. GRASSLEY. Mr. President, yesterday afternoon I discussed the burden that high gas prices are having on all Americans, and not just on my constituents in Iowa but all over this great country. I think now that most of my colleagues in the House and Senate know that high gas prices mean less discretionary income for people—less discretionary income to spend at the mall, to spend at the farmers market, less discretionary income to buy ice cream on hot summer days, and less discretionary income to save for a rainy day.

I can assume my Democratic colleagues know that actions that take discretionary income away from the American people are detrimental to those people and detrimental to the overall economy—detrimental to their way of life and detrimental to our country's future. I guess I don't have to assume folks on the other side know this. This body has been debating the issue of escalating oil prices and energy for the better part of this week. I heard countless accounts from my Democratic colleagues about how their constituents are hurting. So I think my friends on the other side get it. They get that taking the hard-earned dollars out of the pockets of their constituents is detrimental to those constituents.

What my Democratic friends don't get is that raising taxes has the same effect. Raising taxes takes hard-earned dollars out of the pockets of their constituents. Don't folks on the other side think this is a problem? It is a problem for their constituents' way of life, and it multiplies into problems for our economy. It is a problem for our country's future. But I don't think the lead-

ership on the other side understands this fundamental fact. So I guess folks on the other side just don't get it.

Is this change Americans can believe in? If they are not being told the entire story, how can they know what to believe? If the leadership on the other side isn't telling the entire story, the folks in the media need to. And I believe folks in the media are well enough educated to know what the truth is and to spread the truth. So I challenge our media friends and beltway pundits—a little like I did yesterday in remarks here—to report that higher taxes means less discretionary income, it means slower economic growth, and it won't mean more revenue for the Government to spend. It is too bad that people are of the frame of mind that if you raise tax rates, you bring in more revenue, and if you reduce tax rates, you lower revenue. I like to disabuse people of those facts.

Yesterday, I also told the beltway punditry and related press people to stop referring to the bipartisan tax relief of 2001 as the Bush tax cuts. These are the talking points of the leadership on the other side of the aisle that the press seems to somehow eat up because it gets repeated. It is just a fact of life: Bush gets all the credit for the tax cuts. Well, it is intellectually dishonest, and it gives Americans the impression that the bipartisan tax relief that was passed back then—7 years ago—is bad.

But then again, what should we expect from the other side of the aisle and their leadership's campaign? Everything coming out of that shop tends to be poll-driven. Take a poll the night before, and whatever the people are telling you the night before, that is what the message is the next day as opposed to being more concerned about good policy being good politics.

The 2001 tax relief put more money into the pockets of hard-working Americans, and they are better off for it. Sure, the leadership on the other side of the aisle wants the voters to believe tax relief is bad. The junior Senator from Illinois wants the voters to believe raising taxes will solve all problems. The distinguished Senator also wants voters to believe taxes will only be raised on people who earn lots of money, where there isn't the money to solve all the problems. His party wants people to believe there are no downsides for taxpayers, no downsides for economic growth if income taxes go up by 10 percent, even if taxes are raised on families making \$250,000 or more.

Now, it is too bad, but the media seems to believe this propaganda and ignores the fact that the economics behind it are not responsible and factual, because that is the report they put out there, so that is what the people hear.

The Democratic leadership has also successfully convinced the media that raising taxes will bring in more revenue. I want to remind the media that the bipartisan tax relief brought in

more revenue than was projected, much more revenue than what the 1993 Clinton tax increase brought in over a comparable period.

I have a chart here that I would like the media to take a look at, a chart which illustrates that lower taxes have generated record revenues.

See, you have the actual revenues that came in and you have the projected revenues before we lowered taxes. This chart illustrates that Federal tax revenues have been and generally continue to be coming into the Federal Treasury at or above the historical average—and the historical average, the way I say it, is the last four decades—of about 18.2 percent of gross domestic product. Now, what does that 18.2 percent of gross domestic product mean? It means that by lowering the tax rates, as we did in 2001, it does not in any way gut Federal tax revenue.

But how easy is it to explain to people who don't look at economics every day that if you lower tax rates, you are going to bring in less revenue; if you raise tax rates, you are going to bring in more revenue? Because that is kind of what common sense might tell you. But the study of economics and what really happens by the facts are two different things. You can keep tax rates where they historically have been for the last 40 years, about 18 to 19 percent of gross domestic product—and when they were at 20, we reduced them down to that point; in fact, even a little bit less growth has brought them back up—and you can do it without hurting the Federal Treasury. In fact, you can enhance it. Do you know why? Because of the dynamics of our economic system, of our market system. When you let 137 million taxpayers, with more money in their pockets, decide how to spend the money—and probably in 137 million different ways—it does more economic good than when 535 Members of Congress decide how to do it. But you know, some have the attitude around here that the judgment of 535 Members of Congress is much better than the judgment of 137 million taxpayers, so we don't need to raise taxes in order to generate revenue.

So to the media people: Don't believe the Chicken Littles. I have a chart here of Chicken Little, who says that the sky is going to fall if we keep taxes low.

I can't let my colleagues on the other side and some of the skeptics in the press say to the American public that if you earn less than \$250,000 a year, you won't see higher taxes, so I have these news flashes:

News flash: You don't have to be earning \$250,000 to invest money in the stock market.

News flash: You don't have to be earning \$250,000 to have real estate holdings.

News flash: You don't have to be earning \$250,000 to have your savings in mutual funds.

All those flashes prove that if you earn less than \$250,000 a year and you

hold these investments, guess what—you will be paying more taxes. Let me take a closer look so I can demonstrate that is what is going to happen.

In 2003, Congress reduced the top tax rate on capital gains, lowering taxes again from 20 percent to 15 percent. Congress also did the same thing for dividend income, tied it with the capital gains tax rate at 15 percent. For lower income taxpayers, we thought they ought to have an incentive to save, so the tax rate on capital gains and dividends for low-income taxpayers is zero—that is zero with a “z.” Millions of low-income taxpayers receive dividends and capital gains. All of these taxpayers are not making more than \$250,000.

To help out the media, I will illustrate these points with yet another chart. As you can see from this chart, over 24 million tax returns reported dividend income. In Iowa, for instance—my State—over 299,000 families and individuals claimed dividend income on their returns.

Another chart we have deals with capital gains. The first one dealt with dividends, now this one with capital gains. Nationally, 9 million families and individuals claimed capital gains—9 million families—and in my State of Iowa, over 127,000 of them. Now, that is a lot of taxpayers who are not earning a lot of money. So I want the media to report that. It doesn't seem to get reported. I want to see news reports that say something like this: “Even if the other side's Presidential candidate's plan raises taxes on folks making \$250,000, millions of taxpayers make less than \$250,000 and will still see a tax increase.”

That is end of my proposed quote, but you will never see it in the newspaper.

I also want my friends in the punditry and media to connect the dots. If more people are paying higher taxes, the result is less discretionary income and of course slower economic growth. That is the same thing that is going on with high gas prices. The press doesn't seem to have a problem reporting that fact, but it still ends up with the consumer having less discretionary income.

I fought both Democrats and Republicans. I hope I have a reputation of taking on a cause and not worrying about whether it is a Republican cause or Democrat cause. So I have fought both to ensure that our country is on the right course. That course must be and is economic prosperity. I wish to see a real discussion of the negative implications of changing current economic policy. With high gas prices squeezing taxpayers, it is more compelling than ever.

Let's clear away the fog about what is meant to be negative about the Bush tax cuts, because broad-based tax increases are not gauzy “feel good” economic changes. Let's examine the benefit of keeping taxes low.

While I have the floor, I wish to speak on an issue that is coming up for

a vote. This is the Medicare vote in a little while.

The vote we are going to take later today is a very important one—important for our senior citizens and important for all health care practitioners around the country. The outcome of that vote will determine whether we begin working together again on a bill that the President will sign. For the sake of 40 million Medicare beneficiaries, I am here now to urge my colleagues to defeat the cloture motion today. Then we can get to work on a bipartisan basis and write a bill that can be signed into law. That is something Senator BAUCUS and I know how to do.

This afternoon the Senate will be voting to move forward on a bill that will be vetoed and will mean a lot of lost time—not only for the Senate, but we have to get these things done by July 1. With a Presidential veto, I doubt we will. This is a pointless exercise, then, that can be stopped in its tracks by a “no” vote on cloture.

What is worse, the reality is that the bill is not even ready for serious consideration. Members of the Senate, it is very incomplete, obviously incomplete. It was introduced with blanks and brackets. It will not become law.

It cuts oxygen reimbursement. It cuts power wheelchair reimbursement. It threatens future physician updates. The danger is July 1, doctors get cut 10.6 percent if we do not intervene. It is a partisan bill that delays bipartisan consideration of the Medicare bill.

While the Senate wastes time with this bill, millions of taxpayers' dollars in administrative costs are also going to be wasted because the Center for Medicare Services has to program their system to not have the physicians' pay cut go into effect July 1. But they can only do that if Congress can pass a bill that can be signed by the President.

Voting for this bill is the same as asking for the physician pay cut to go into effect. If it does, then CMS has to potentially hold millions of claims, to process them later. That costs millions and millions of dollars a week. If the Senate votes cloture on this bill, we may as well be taking a match to millions of taxpayers' dollars.

We had been working in a bipartisan process that could get us a bill that could be signed into law. For some reason the majority walked away from the table. That was kind of recently, during the end of May. With all due respect to my friends on the other side of the aisle, in the 3 weeks since they have produced a bill that, for all the rhetoric we are hearing about it, is not worth the paper it is printed on. It will not become law. It will be vetoed.

Meanwhile, doctors in this country are looking at the calendar, wondering what their payment will be after June 30, and wondering whether they can still afford to see Medicare patients. They are wondering if they have enough cash reserves if Congress doesn't get its act together.

I want to say something to the doctors back home who are listening to

this debate. They tend to be very busy, so I don't expect a lot of them to be listening, but if they are I want to have them hear this. Your insider Washington lobbyists are telling you that supporting cloture is the best way to prevent the physician pay cut from going into effect July 1. I think these high-paid lobbyists here in Washington are giving you, the family practitioners and surgeons and interns back home, bad advice. It is a good thing they are not giving the advice to real patients, as you do, if this is the kind of judgment they would use. The fact is, a vote in support of cloture is the absolute worst thing that could happen if you want the physician payment update addressed by the date it ought to be ready for CMS to carry it out, July 1.

If 60 Senators support cloture we will move to pass a bill out of the Senate. Of course that will be a bill that will be vetoed. Then the Senate will sit down with the House on a partisan basis and produce a compromise that has even more spending yet, and is even more liberal and more certain to be vetoed. Then it will be voted on in the House and come back here for a vote. Then, finally, it will go to the President where it will be vetoed. Then we will have a veto override that will certainly fail.

Then and only then—how many weeks away that is I don't know—we will sit down again on a bipartisan basis to write a bill that will become law. Given how quickly things move around here, that could well be at election time. If cloture fails, I am ready to roll up my sleeves and go to work tonight. So, to all the doctors listening to this wherever you are—in your hospitals, your homes—and to folks who pay dues to groups such as the American Medical Association and to the American College of Physicians, hear me when I say the people telling you that supporting cloture is the way to get the physician payment update done fastest do not deserve the jobs they hold and the hundreds of thousands of dollars you pay them. The answer is a simple one. We need to defeat the cloture motion today and we need to get back to bipartisan work to protect Medicare for America's seniors and the providers who serve them.

Yesterday Senator MCCONNELL, the Republican leader, and I introduced a bill, S. 3118, to address the problems we face in Medicare. The Democrats are blocking our bill from getting a vote today. It is too bad, because this is a very good bill. I spoke of some of the provisions of this bill in the last several days. It is a bill that clearly serves Medicare beneficiaries. Our bill reduces medication errors with stronger e-prescribing provisions. This will help ensure that our seniors' health care is not compromised by duplicative, dangerous, and incompatible prescriptions.

Our bill helps patients who have had a heart attack with cardiac and pulmonary rehab. Our bill ensures that

seniors who need access to outpatient therapy services will continue to receive the therapy they need.

I am very pleased our bill pays a tribute to our beloved departed colleague, Senator Craig Thomas of Wyoming, by including a number of provisions that protect access for beneficiaries in rural America. Specifically, our bill would accomplish helping rural America by addressing inequitable disparities in the Medicare reimbursement between rural and urban providers, and helps ensure these providers are able to keep their doors open.

By continuing to fund two important and very successful programs to combat diabetes, our bill helps people with that dread health problem.

Finally, our bill includes a number of extensions to help low-income seniors and families.

As we close this debate—and the vote is about 35 minutes away—I think the vote is a very simple one. The President will sign a bill that preserves Medicare for American seniors and the providers who serve them. The President will sign a bill that will provide increases in payments for rural health care in America. The President will sign a bill that reduces payments to Medicare Advantage. The President will also sign a bill promoting value-based purchasing, electronic prescribing, and electronic health records. The President will then sign a bill that does not require cuts in oxygen payments or payments for power wheelchairs.

Unfortunately, regarding the bill we will be voting cloture on, the vote is to move forward on a bill that is not a bill. I have described that. I am not going to go into greater detail.

People back home often don't understand votes on procedural motions such as the one we call cloture, which we will have at 3. But this one ought to be very easy to understand. Voting for this bill is a step backward; it is not a step forward. It will not become law, and we have to get something to the President that he will sign by July 1 to avoid doctors taking Medicare cuts of 10.6 percent.

I ask my colleagues to vote "no" on the cloture motion so we can get to work on a bill the President will sign. Let's set aside partisan games and get to work protecting Medicare for America's seniors.

I yield the floor.

Mr. President, since I do not see other speakers, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, unless we act, on July 1 the law will cut Medi-

care payments to doctors by 10 percent. Today, we have an opportunity to vote on proceeding to a bill that will stop that cut. In addition to averting the 10-percent payment cut, the bill on which we will vote today will also make important improvements for beneficiaries.

It will help those with very modest incomes to get the help they need, and it will expand access to preventative benefits in Medicare. We should all agree that prevention is critical to moving our health care system from one that treats disease to one focused on wellness.

The bill includes a provision intended to give a boost to primary care physicians. These represent a downpayment on changes that I would like to consider in the near future to advance the role of our front-line physicians.

The bill will improve access to health care in rural areas. The bill includes many policies from the Craig Thomas Rural Hospital and Provider Equity Act, all supported so strongly by so many Senators.

The bill will lend a hand to pharmacists. Pharmacists face so many challenges right now. And the bill will help ambulance providers. Today, these first responders must contend with record high and rising gas prices.

That is what this bill will do. It is a good bill, it is a balanced bill, and it is a bill that my colleagues should be proud to support. Let me also talk about what this bill would not do. I have heard some claims made about the bill. I would like to set the record straight.

First, the bill would not make drastic cuts to Medicare Advantage payments. This is not the House-passed CHAMP bill. Although I believe there is justification for making significant reductions to Medicare Advantage benchmarks, this bill will not do that. This bill would not affect the benchmarks in Medicare Advantage.

Second, this legislation will not eliminate private fee-for-service plans. What it will do instead is take away the ability of these plans to "deem" doctors and hospitals into their networks. Right now private fee-for-service plans are permitted to circumvent network requirements. They can deem any Medicare provider to be part of the plan network. They can do so without any formal agreement between the provider and the private fee-for-service plan.

What does that mean? That means that doctors and hospitals are automatically considered by the plan to have agreed to all the terms and conditions of the plan automatically. They are automatically considered to have agreed to payment levels, to patient cost-sharing obligations, and to billing procedures, even when they have not made such agreements.

So it is no wonder that we hear from providers that they do not like dealing with these plans. I would go so far as to say that forcing doctors and hospitals

to accept the terms that plans lay out, without a chance to negotiate, seems un-American.

How will this legislation address deeming? It will eliminate this deeming authority in 2011—yes, 2011; not right now but 2011; not next year, not 2010 but 2011. The plans would have 2.5 years to develop a network. I believe that is plenty of time.

Moreover, the bill will protect choice in rural areas. The deeming provisions will only affect areas where there are already two or more plan options available that have a network. In those areas where existing plans have contracted with providers to form a network, private fee for service has a competitive advantage. This bill will level the playing field across all plans.

Second, this bill will not cut teaching hospitals. It will not jeopardize access to plans in areas where academic medical centers are most prevalent.

Right now, Medicare pays twice for indirect medical education on behalf of patients in Medicare Advantage plans. Medicare pays once when it reimburses teaching hospitals directly for IME costs, and Medicare pays a second time by inflating payments to Medicare Advantage plans for the same costs. So under this bill, teaching hospitals will continue to receive IME payments directly from Medicare, but the unnecessary double payments will be eliminated.

Third, this bill will not allow wealthy seniors to qualify for low-income subsidies, as has been claimed. The bill will raise the asset test from \$4,000 to just under \$8,000 for individuals. And it will raise the asset test from \$6,000 to \$12,000 for couples. The bill will give more seniors with very limited means the ability to qualify for additional subsidies.

The income cut-offs to qualify for the subsidies will remain the same. Beneficiaries will need to have incomes below \$10,200 for the Qualified Medicare Beneficiaries Program, and below \$12,500 for the Specified Low-Income Medicare Beneficiaries Program. That is under current law, no change.

I think we all would agree that anyone with an annual income below \$12,500 and personal assets below \$8,000 is someone we should want to help. And if we can get the 60 votes to get to this bill, I will do something else. I will offer an amendment to delay implementation of the competitive bidding program for durable medical equipment. That is a pledge that I made to many of my colleagues, and it is a pledge that I make publicly, a promise I intend to keep.

I will offer as an amendment the language of the bipartisan bill introduced earlier today in the House by Representatives STARK, CAMP, BOEHNER, and PALLONE. Their bill is thoughtful, it is balanced, and it responds to many of the concerns we have all heard from the DME industry. If we get to this Medicare bill, we will include that language in this bill.

Another policy in S. 3101 that I intend to revisit is oxygen cuts. Congress needs to address overpayments to oxygen. In some cases, Medicare pays 1,000 percent above what these supplies cost, and beneficiaries pay the price through inflated copayment rates.

But this is a limited bill. It is not intended to fix all that ails Medicare. We will revisit oxygen payments when the Congress next takes up Medicare. By my estimate, that would be next fall when the 18-month physician fix and other policies will expire.

In sum, time is running out. It is running short. We need to complete a bill by June 30. That is not many days away. The options before us are few and fraught with pitfalls. By far, the best option for getting a Medicare bill done this year is a bill on which we will vote today.

This bill is bipartisan. It is carefully balanced. It does what we need to do. I urge my colleagues to vote for cloture on the motion to proceed.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I yield myself 5 minutes from time that is reserved for the leader or, alternatively, from time that is available at this point that is open.

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

Mr. GREGG. I ask the Chair if there is time presently available?

The PRESIDING OFFICER. There is 10 minutes for the minority leader.

Mr. GREGG. Mr. President, I rise to raise my concerns about the procedure and about the substance. We all know there has to be a fix relative to the doctors. We all know we cannot have this sort of reduction in payments to physicians. That is just a fact.

My own personal preference is that we fix this permanently. It is going to cost a lot of money, but that is the way it should be done. We should not be fixing this every year. And, in fact, it is becoming a geometric progression which is spiraling downward, with every year becoming a much more difficult effort.

We should basically do Medicare reform. But short of that, we should do a permanent doctor fix so that the physicians in this country know they are going to get a reasonable upgrade of their reimbursement every year. We should not have to go through this.

However, this bill does not accomplish that. In fact, this bill aggravates the problem significantly. I genuinely wish the bipartisanship effort which Senator BAUCUS and Senator GRASSLEY had been pursuing had been the effort that had come to floor, but it did not.

What has come to the floor is a partisan effort; regrettably, it is not a very good one. It has a couple of practical problems, and then it has a very substantive problem. The substantive problem is that it spends \$2 trillion that we do not have, not to fix the doctor problem but to add new benefits in certain elements for certain recipients

under Medicare Part D. Well, Medicare Part D is already \$36 trillion in debt, unfunded liabilities. Put \$2 trillion more on top of that, it means we are passing a huge cost on to our children. It is not fair. It is not appropriate.

The practical problem this bill has—I find it incredible that we are being asked to vote on it, quite honestly—is that it has blanks. This is the first time I have ever seen this. This bill literally has blanks in it. We are being asked to vote on a bill where the numbers, which are operative relative to how much this bill is going to cost, are left out. There are actually parentheses with nothing in them. There are lines where there is a blank. And we are being asked to vote to close the debate on this and move to final passage on this without even knowing what the numbers are going to be which are to fill in those blanks.

This is so egregious, so egregious, that the CBO, which is the independent scorekeeper around here, which is the fair umpire around here, has written us and said: They cannot score this bill. They cannot give us a cost estimate since the introduced version has blanks.

The Congress should not work this way. The Senate should not work this way. This is totally inappropriate. It is a terrible precedent. It is worse than a terrible precedent. It is an incompetent precedent to set to bring to the floor a bill that does not tell us how much it is going to spend because the other side of the aisle does not want to tell us how much it wants to spend or, alternatively, because they are not competent enough to put numbers into the bill.

It is incredible to me that we would be asked to vote cloture on a bill that the Congressional Budget Office says they cannot estimate the cost of, which is their responsibility, because it has blanks.

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

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

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 11, 2008.

Hon. JUDD GREGG,
Ranking Member, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR SENATOR: As you requested, enclosed are CBO estimates of the costs of the provisions of S. 3101, the Medicare Improvements for Patients and Providers Act of 2008, as introduced on June 6, 2008.

As you noted in your request letter, some of the provisions of the introduced bill are incomplete: there are some elements that are necessary to producing a cost estimate for the bill that are not included in the current language. In addition, a number of elements in the bill are bracketed and thus could be considered subject to change.

The enclosed table contains estimates for those provisions of the bill for which we can estimate the costs, but does not include a CBO estimate for the total cost of the bill since the introduced version has blanks for some of the values for key provisions. For the purposes of these estimates, CBO assumed that all bracketed language would have full force and effect.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Tom Bradley.

Sincerely,

PETER R. ORSZAG.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. McCONNELL. Mr. President, our greatest successes in this Congress have come when both sides have worked together. We saw it last year on the Energy bill when we increased the CAFE standards to historic levels and, more recently, the first thing this year on the economic stimulus package.

We started initially down the path of compromise when we began the Medicare discussions. Both sides wanted to prevent cuts to physicians in the Medicare Program and to preserve access to the quality of medical care our seniors have come to depend upon.

Unfortunately, the majority walked away from these bipartisan discussions. In an effort to preserve some of the progress, protect benefits for seniors, and to produce a bill that can be signed into law, Senator GRASSLEY crafted a Medicare bill which, if it were to be passed today, it would be signed by the President of the United States.

Senator GRASSLEY's alternative, which I will shortly ask consent to go to, includes a 1.1 percent increase in the physician update, protection for patients who need extensive therapies following a stroke, 2 years of funding for the special diabetes program, a new cardiopulmonary rehabilitation benefit—this is, by the way, especially important to Kentucky where far too many of our citizens struggle with pulmonary diseases.

There is a new program to improve care and save money by encouraging doctors to write prescriptions electronically, a very important step in the right direction. And it also preserves patient choice and access to Medicare Advantage, which helps retired Kentucky teachers.

We all know what is going to happen. Once this bill is not proceeded to, we will have bipartisan negotiations, which is the way this process started out in the first place and, frankly, the way it will ultimately end. That is the way the Senate does its best work. Having said that, I have notified my friend, the majority leader, that I did have a consent agreement to propound. I see that he is now on the Senate floor. I will ask that consent at this time.

I ask unanimous consent that the pending motion be temporarily set aside and that it be in order for the Republican leader to move to proceed to S. 3118, a bill introduced by Senator GRASSLEY to extend expiring provisions under the Medicare Program and to file cloture on that motion. I further ask that the cloture vote on the motion to proceed to S. 3118 occur immediately following the cloture vote on the motion to proceed to S. 3101. I further ask that if the motion to proceed to either

Medicare bill is adopted, no other pending business be displaced.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, on the floor now is the Presiding Officer and the chairman of the Finance Committee. Two more bipartisan Senators we do not have in the Democratic Caucus, Senators always willing to work with the other side. They both have reputations—BAUCUS in Montana, NELSON of Nebraska—of working with the other side. There is no partisan advantage in the minds of either one of these Senators.

Why can't we move to this bill? If there is a way to improve it, let's improve it. That is all we want.

Mr. MCCONNELL. Parliamentary inquiry: Is this an objection?

Mr. REID. Why do we have to go through this routine of stopping—

The PRESIDING OFFICER. Is the leader asking for the regular order?

Mr. REID. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I have time set aside at this time. Why in the world do we want to object again?

Mr. President, downtown this morning one of the Republican Senators whose name I won't mention said, meeting with a number of people downtown—this Republican Senator said: There is a lot of frustration within the Republican caucus about blocking motions to proceed.

Of course, there is. The Republicans don't like it. Why do they continue to do this? We want to legislate on this important piece of legislation. It is not only a doctors fix, it is a fix to our health care delivery system.

I am disappointed very much that the Nelsons of the world, the Baucuses of the Senate world can't work together in a bipartisan basis. They want to. I received a call before lunch, before I went to our policy luncheon, from a Republican Senator. He said: Are you going to fill the tree? I said: Of course, I am not going to fill the tree. Why would I? He said: OK. I will vote with you. So I know at least we have one Republican vote. He told me he is going to vote with us on cloture. I hope others would follow with that.

In 1965, President Lyndon Baines Johnson traveled from Washington, DC to Independence, MO to join former President Harry Truman in Harry Truman's hometown of Independence, MO. The purpose of the trip and the meeting between the current and former Presidents was to sign into law a bill Harry Truman had conceived and Johnson had championed. The new law created Medicare.

I know a little bit about Medicare. My first elective job was in 1966. I was elected to the Southern Nevada Memorial Hospital board of trustees. It might not sound like much to anybody but to me that was important. I beat an incumbent. At the time I took that job—I was there for 2 years—40 percent of the senior citizens who came into our hospital had no insurance. What did we do? We had them sign a certifi-

cate or we would not let them in the hospital, unless a father, a mother, a husband, a wife, a brother, a sister, or a friend agreed to pay their bill. If they didn't pay the bill, we had a collection department, and we went after them big time, as they did every place in the country.

Medicare came into being. When I was there, before I left, Medicare came into being. Now 99-plus percent of older people who go into hospitals in America have Medicare insurance, a pretty good deal. That is why Truman thought of it. That is why Johnson implemented his thought process. The new law they were there to celebrate created the Medicare Program, a program that has ensured quality health care to America's senior citizens for more than four decades. Since Johnson signed the bill and gave Truman the first ceremonial Medicare card, hundreds of millions of senior citizens have also received their Medicare card. With each new Medicare card issued, our country renews its commitment to bedrock values of those who have worked hard and made their contribution to society, and they deserve to know they will be cared for as they reach those golden years.

But even on the day that bill was signed, President Johnson acknowledged the bill was imperfect. Who were the Senators who voted against Medicare when it came into being? Who were the Senators who recognized they would not vote for that bill? All Republicans. Every person who voted against Medicare's implementation was a Republican Senator. They haven't changed. They reluctantly do what they can for Medicare, but they don't support it.

President Johnson acknowledged it was imperfect. For all the good Medicare has done our Nation's seniors through the years, for all the good it has done for them today, it could be better. Our efforts to make Medicare work better continue today with the Medicare Improvements Act. That is what the chairman of the committee was trying to do, make it better. That is what this is all about.

I am grateful for the work of Senator BAUCUS, chairman of our committee. Anyone who knows, I repeat, the Senator from Montana is well aware of his ability to work with both sides of the aisle to forge bipartisan solutions. On this legislation, Senator BAUCUS worked tirelessly with Democrats and Republicans. He reached out to the Bush administration and to the Republican leader. In these efforts, though, he was met with a reluctance to move forward, reluctance that has sadly become the rule, not the exception, among our Republican colleagues. Nevertheless, Senator BAUCUS moved forward. He worked side by side with Democrats and willing Republicans to create a bill that would make Medicare work better for millions of senior citizens.

Senator BAUCUS laid out the many virtues of this legislation yesterday so I will do no more than summarize the

key points of this most important legislation. The Medicare Improvements Act provides increased coverage for Medicare. This is so important. There is no better way to treat illness than true preventive care. Not only will this enhanced preventive coverage improve the health of Medicare recipients, but it will also save taxpayers in the long run from the astronomically higher costs associated with treating serious illnesses which could have been avoided with preventive care.

This legislation also makes mental health care more affordable. I have worked throughout my time in Congress to shed light on the tragic but all too often hidden cost of depression and other mental health problems among older Americans. Sometimes depression among seniors leads to suicide. There is no group of Americans that dies more than seniors from suicide. Medicare currently discourages beneficiaries from seeking care for mental illness by requiring a 50-percent copayment for mental health services versus a 20-percent copayment for physical health services. This legislation will eliminate that disparity and expand coverage for medications to treat mental health illnesses.

The Medicare Improvements Act also makes it easier for low-income seniors to access benefits by extending the Qualified Individuals Program, increasing eligibility for the Medicare Savings program and eliminating the drug benefit penalty. And for all seniors, this bill provides funds for State and local programs to help navigate through the program and ensure the greatest benefits possible.

When President Johnson signed Medicare into law in 1965, he acknowledged that for all the good this program would do, I repeat, it wasn't perfect. That has not changed today. For all its virtues, far too many seniors are not accessing the care they earned and to which they are entitled. Far more can be done to prevent and treat physical and mental illness to provide older Americans with the very best quality care we can provide them. Will the Medicare Improvements Act make Medicare perfect? No. But there is no question it will make it better, far better. There is no question it will help millions of Americans access Medicare and get the most of its benefits once they do.

There has been some talk of Republicans refusing to join Democrats to support the motion to proceed to this legislation. That is what the Republican leader said today. He told all of his Republicans: Don't vote for this. We will work out something better. That is the process. The process is not the status quo. If there are improvements they want to make, there is no bigger listener than MAX BAUCUS of the Finance Committee. He will manage this bill. But if they follow the lead of

the Republican leader, they are being led off a cliff. Republicans wouldn't just be refusing to support the bill, they would be refusing to let us even move to debate it. They would be stopping this crucial legislation in its tracks and deny any possibility of progress or compromise in the near future.

I hope people on the other side will follow what I read to them from a Republican Senator downtown this morning: There is a lot of frustration within the Republican caucus on blocking motions to proceed.

And well there should be.

I will use leader time, Mr. President.

I can't imagine why all 100 Senators would not flock to quickly pass this legislation, much less why they would not all vote eagerly for the motion to proceed. Denying debate on the Medicare Improvements Act and denying its passage would be a grave disservice to tens of millions of Americans over age 65. It would be a slap in the face to all those who suffer silently through mental illness because they can't afford the treatment that would make them well. Opposing this legislation and clinging to the status quo, as I fear some Republicans may choose to do, would be an abandonment of our decades-old commitment to honoring and caring for senior citizens in the manner they deserve.

In Independence, MO, 43 years ago, President Johnson said this:

Many men can make many proposals. Many men can draft many laws. But few have the piercing and humane eye which can see beyond the words to the people they touch.

Few can see past the speeches and political battles to the doctor over there that is tending the infirmed, and to the hospital that is receiving those in anguish, or feel in their heart the painful wrath at the injustice which denies the miracle of healing to the old and to the poor.

And fewer still have the courage to stake reputation, and position, and the effort of a lifetime upon such a cause when there are so few that share it.

But it is just such men who illuminate the life and history of [this] nation.

Because times have changed in 43 years, I call upon the men and women of the Senate to do the right thing and let us move to this legislation. It is the right thing to do. President Johnson's words go to the heart of this country. People need to vote their conscience, not the status quo.

Mrs. BOXER. Will my friend yield for a brief question?

Mr. REID. I have time? OK.

Mrs. BOXER. In a minute or less, I am rather stunned to hear that the Republican leader is suggesting that Republican Senators vote no to move to a bill for the purpose of making improvements in Medicare. I ask my friend, because people sometimes lose track of what happens, would this not be the third straight bill in a row where the Republicans have been fierce defenders of the status quo—global warming, gas prices, and now fixing Medicare? Am I correct on that?

Mr. REID. I say to my distinguished friend from California, it has gotten so out of hand that we are having trouble keeping up. We now have on filibusters 75, but we have it on Velcro because we know they will add another one to it in the near future. We also have Velcro as to what they are blocking on a given day. We pull it off because yesterday they were blocking global warming. The day before they were blocking gas prices, today Medicare improvements. It has gotten so difficult around here that we have Velcro as to what they are stopping.

If there is no more time to be used on the Republican side, we could start the vote early. We are going to start the vote early. We were going to consider having it started at 3 o'clock. There are some people who want to leave and we have some coming back. Anyway, I have gotten a nod to yield back all time for both Democrats and Republicans, and I ask that the vote start.

CLOTURE MOTION

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

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 motion to proceed to Calendar No. 772, S. 3101, the Medicare Improvements for Patients and Providers Act of 2008.

Harry Reid, Max Baucus, Jon Tester, Barbara Boxer, Benjamin L. Cardin, Bernard Sanders, John F. Kerry, Patty Murray, Maria Cantwell, Blanche L. Lincoln, Ken Salazar, Charles E. Schumer, Ron Wyden, Patrick J. Leahy, Jeff Bingaman, Debbie Stabenow, John D. Rockefeller, IV, Jack Reed.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 3101, the Medicare Improvements for Patients and Providers Act of 2008, 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 New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Ms. LANDRIEU) would vote "yea."

Mr. KYL. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. SUNUNU).

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

The result was announced—yeas 54, nays 39, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—54

Akaka	Durbin	Nelson (FL)
Baucus	Feingold	Nelson (NE)
Bayh	Feinstein	Pryor
Biden	Harkin	Reed
Bingaman	Johnson	Roberts
Boxer	Kerry	Rockefeller
Brown	Klobuchar	Salazar
Byrd	Kohl	Sanders
Cantwell	Lautenberg	Schumer
Cardin	Leahy	Smith
Carper	Levin	Snowe
Casey	Lieberman	Specter
Coleman	Lincoln	Stabenow
Collins	McCaskill	Stevens
Conrad	Menendez	Tester
Dodd	Mikulski	Webb
Dole	Murkowski	Whitehouse
Dorgan	Murray	Wyden

NAYS—39

Alexander	Craig	Isakson
Allard	Crapo	Kyl
Barrasso	DeMint	Lugar
Bennett	Domenici	Martinez
Bond	Ensign	McConnell
Brownback	Enzi	Reid
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Thune
Coburn	Hagel	Vitter
Cochran	Hatch	Voinovich
Corker	Hutchison	Warner
Cornyn	Inhofe	Wicker

NOT VOTING—7

Clinton	Landrieu	Sununu
Inouye	McCain	
Kennedy	Obama	

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Madam President, I enter a motion to reconsider the vote by which cloture was not invoked on the motion to proceed to S. 3101.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Madam President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

The majority leader is recognized.

Mr. REID. Madam President, first of all, let me say I really appreciate the nine Republicans who voted to proceed. I appreciate that. We want to legislate. I think there is an indication that maybe things are getting to a point where we are going to be able to do that. I hope that, in fact, is the case.

RENEWABLE ENERGY AND JOB CREATION ACT OF 2008—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Madam President, I move to proceed to Calendar No. 767, H.R. 6049, and I send a cloture motion to the desk.

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

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 motion to proceed to Calendar No. 767, H.R. 6049, the Renewable Energy and Job Creation Act of 2008.