

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Mississippi (Mr. COCHRAN).

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

The result was announced—yeas 80, nays 17, as follows:

[Rollcall Vote No. 322 Leg.]

#### YEAS—80

Akaka	Feingold	Nelson (NE)
Alexander	Feinstein	Nelson (FL)
Barrasso	Franken	Pryor
Baucus	Gillibrand	Reed
Begich	Gregg	Reid
Bennet	Hagan	Risch
Bennett	Harkin	Roberts
Bingaman	Inouye	Rockefeller
Bond	Johnson	Sanders
Boxer	Kaufman	Schumer
Brown	Kirk	Shaheen
Brownback	Klobuchar	Shelby
Burris	Kohl	Snowe
Byrd	Kyl	Specter
Cantwell	Lautenberg	Stabenow
Cardin	LeMieux	Tester
Carper	Leahy	Thune
Casey	Levin	Udall (CO)
Collins	Lieberman	Udall (NM)
Conrad	Lincoln	Vitter
Corker	Lugar	Voinovich
Cornyn	McConnell	Warner
Crapo	Menendez	Webb
Dodd	Merkley	Whitehouse
Dorgan	Mikulski	Wicker
Durbin	Murkowski	Wyden
Enzi	Murray	

#### NAYS—17

Bayh	Ensign	Isakson
Bunning	Graham	Johanns
Burr	Grassley	McCain
Chambliss	Hatch	McCaskill
Coburn	Hutchison	Sessions
DeMint	Inhofe	

#### NOT VOTING—3

Cochran	Kerry	Landrieu
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The conference report was agreed to. The PRESIDING OFFICER. The Senator from Illinois is recognized.

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

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

The motion to lay on the table was agreed to.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

#### VOTE EXPLANATION

• Mr. KERRY. Mr. President, I was necessarily absent for the vote on the conference report to accompany Energy and Water Development and Related Agencies Appropriations Act, 2010, H.R. 3183. If I were able to attend today's session, I would have voted yes on the conference report.●

Mr. HATCH. Mr. President, today the Senate voted 80 to 17 in favor of the Energy and Water appropriations bill, H.R. 3182. I praise Chairman BYRON L.

DORGAN and Senator ROBERT F. BENNETT, the Republican ranking member, and the other members of the Energy and Water subcommittee for putting together what I consider to be a good bill and certainly a big improvement over the energy budget sent to us by the President.

Knowing that the funding measure would pass, I chose to vote against this bill, which funds the Department of Energy, as a signal to the Obama administration and the DOE that American taxpayers want and need a serious pro-energy plan, not the anti-energy strategy being pushed on us by the United Nations Intergovernmental Panel on Climate Change, which this administration has adopted.

When the Secretary of Energy testifies before Congress that he believes it is his job to cut carbon-dioxide emissions by 80 percent in the next 40 years, then we know our Nation does not have an energy policy; rather, we have an anti-energy policy. Cutting our Nation's emissions by 80 percent would provide two certain outcomes: First, reducing CO<sub>2</sub> at that reckless pace would certainly devastate our economy and ruin our Nation's global competitiveness. Secondly, according to the U.N.'s own calculations for CO<sub>2</sub>'s warming ability, it would result in no perceptible reduction in global temperatures. At best, it would reduce temperatures by about 0.1 degrees Centigrade after 40 years of economic torture.

Maybe the media have fallen for this dangerous distraction to a real energy policy, but the polls show that the taxpayers have not.

#### MORNING BUSINESS

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

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

Mr. BURRIS. Mr. President, I would like to speak in morning business.

The PRESIDING OFFICER. The Senator is recognized.

#### HEALTH CARE REFORM

Mr. BURRIS. Mr. President, earlier this week I came to the Senate floor to discuss some of the misinformation we have seen about the issue of health care reform. Just this morning, I joined my freshmen colleagues to knock down some of the persistent myths about reform and particularly about the need for a public option.

As we prepare to consider a health bill before the full Senate, I would like to discuss the way forward from here. I believe our path is very clear. The only way to achieve meaningful health care reform and bring costs down is through a public option that will bring real competition into the system. That is why I will not vote for any health care

bill that does not include the public option.

Insurance companies should have to compete for your business just like any other company. This principle has always been at the heart of America's economy, and it does not make sense for insurance companies to get a free pass. As competition shrinks, profits soar. A public option is the only way to restore choice to the marketplace. It is the key to freedom, accountability, and fair play. That is why I will not compromise on this point.

On Tuesday, our colleagues in the Finance Committee reached a new milestone on the long road to reform. They became the last of five committees in both the House and the Senate to take up this legislation. When they passed their version of the bill, it was the furthest any health reform measure has ever come. Now let us make it a reality.

I congratulate my distinguished colleagues on their significant achievement. I applaud their leadership on this difficult issue. But it was disappointing this legislation did not include a public option. As we move forward and merge the Finance Committee bill with the HELP Committee's version, I will work with my friends to make sure the combined measure does include a public option. In a very short time, every Member will have the opportunity to shape this important legislation. When this bill comes before the Chamber, we will have the chance to make good on the promise Teddy Roosevelt made almost 100 years ago when he first called for sweeping health care reform.

This pivotal debate is nearly at an end. The time for action is upon us. That means it is time to separate fact from fiction. It is time to discuss the facts and drown out the noise. The public option will restore choice and competition to an insurance market currently dominated by only a few companies. The public option will spur fresh accountability and a return to fair practices. Premiums will come down. Relative health outcomes will go up. For the first time in years, insurance corporations will need to compete for business. They will need to be accountable to customers and not only to shareholders. That is what reform with a public option will mean to the American health care system.

When opponents of reform talk about death panels, a government takeover, and socialism, they are trying to distract us from the issue at hand. When they claim the Finance Committee bill will make premiums go up instead of down, it is the same sleight of hand we have seen from the big corporations many times before.

They know they cannot win the argument on the merits so they are trying to change the subject. Instead of talking about American families and rising costs, real health outcomes, they need to rely on scare tactics to maintain their monopoly over the insurance

market. That is why it is time to draw a line in the sand. It is time to reject these distractions and stand on the side of the American people.

That is what this debate is about. It is about individuals who send us to Washington to fight for their rights and defend their interests. It is about families who sit around the kitchen table in Illinois and across America. They open their pocketbooks and write larger and larger checks every month. They are wondering when we will have the courage to act on our convictions.

We must not delay another moment. If we fail to act, health care coverage will continue to increase in price and decline in quality. Let us rise to the challenge. Let us seize this moment. There is no doubt the Senate is the greatest deliberative body on the face of the planet. Throughout our history, contentious arguments such as this one have played out on the floor of this Chamber and the old Senate Chamber down the hall. The world knows this Senate can debate. But let it now show them we can also act. Let it show them we can take action.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

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

#### MEDICARE PHYSICIAN FAIRNESS ACT OF 2009—MOTION TO PROCEED

##### CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 178, S. 1776 and, in the process, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

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. 178, S. 1776, the Medicare Physician Fairness Act of 2009.

Harry Reid, Debbie Stabenow, Roland W. Burris, Patty Murray, Mark Udall, Mark Begich, Frank R. Lautenberg, Amy Klobuchar, Jack Reed, Carl Levin, Jeff Bingaman, Sherrod Brown, Sheldon Whitehouse, Barbara Boxer, Kirsten E. Gillibrand, Charles E. Schumer, Jeanne Shaheen, Richard J. Durbin.

Mr. REID. I ask unanimous consent that the cloture vote occur at 5:30 p.m., Monday, October 19, and that the mandatory quorum be waived; further that at 4:30 p.m. on Monday, there be 60 minutes of debate equally divided and controlled between the leaders or their designees prior to the 5:30 p.m. vote.

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

Mr. REID. I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. SESSIONS. I ask unanimous consent that the order for the quorum call be rescinded.

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

#### COMMERCE, JUSTICE, SCIENCE APPROPRIATIONS

Mr. SESSIONS. Mr. President, I join in support of the Vitter amendment, which would preclude any funding in the CJS appropriations bill being used for the 2010 census, if the census does not include a citizenship question. Under current law, the census does not even ask the question about whether individuals in the United States are citizens or not. They ask people how many bathrooms and children they have, all kinds of things, but they don't ask a citizenship question. Congressional apportionment in the U.S. House of Representatives is based on that total population count, including people illegally in this country. I think representation in Congress should be based on the number of legal residents, and it should not be increased because persons here illegally, not eligible to vote, happen to be in that State. That is a matter I hear a lot about from my constituents. They ask how this is possible. They are shocked that is what might be happening. The truth is, it does happen.

So I think Senator VITTER is raising a good question, and I believe his amendment is valid. Our next census will determine the reapportionment of the House of Representatives and Electoral College votes each State has.

The 2010 census form lacks the simple question: Are you a citizen of the United States of America? How accurate can we in Congress expect to be about the composition of our population if we do not ask that question, especially when some estimate there may be as many as 12 million people illegally in the country? Indeed, I think that probably is an accurate figure, so it has an impact. Calculations using some of the interim census data estimates are pretty dramatic and point out the real impacts of this policy.

Using the American Community Survey of the Census Bureau, their estimates for State population, including noncitizen and citizen populations, is instructive. The discrepancy in numbers for reapportionment using those different figures is significant. For example, States that might otherwise expect to gain or expect not to lose population, lose congressional seats, would do so if these numbers are counted. For example, Indiana, Iowa, Michigan, North Carolina, Oregon, Pennsylvania, South Carolina, and Louisiana—all of

those would be expected to stay the same or gain. And if illegals are counted, they will either not gain or lose seats.

So I think that is a pretty important issue. It is not something with which my State is directly involved. But having dealt with the immigration issue over some period of time, and trying to be informed about it, I hear a lot of people raising this fundamental question. I think it would be simple to fix constitutionally. We would simply say: Ask how many people are here legally and use that to be the basis of the apportionment of congressional seats, and not using people who are not here legally. It does not threaten people. It does not mean they will be arrested or anything like that or to be subject to deportation. It simply means when the numbers are all in, we will know how many U.S. residents exist in the various States, and from that number we will be able to apportion our House of Representatives and the Electoral College for the next Presidential election.

I think that is the right thing to do. We need to get away from this other process and urge the support of the Vitter amendment.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

##### HEALTH CARE REFORM

Mr. LAUTENBERG. Mr. President, I rise to make some comments about the health care bill we are all anxious to see and discuss.

Everyone knows a principal focus of our attention now in the Senate is on the health care reform bill, and we expect a major debate on the precise structure of that bill over the next few weeks. But I want to, in that connection, start my remarks with a quotation from a statement given by the Senator from South Carolina. He said, on June 17, 2009:

If we're able to stop Obama on this, it will be his Waterloo. It will break him.

That is the Republican dominant view on health care reform. The mission is not to do better for the American people but, rather, to destroy the Presidency of Barack Obama. It is an unpleasant scene to witness.

Almost all Americans want to see us fix our health care system. I say "almost" because there is a group of people here who love the status quo: health insurance companies and their lobbyists and CEOs.

Everyone knows health care costs have skyrocketed, and that means everybody pays more. But when working people are under assault to pay more, it could cause a catastrophic confrontation with funds, with money for food and education and other ordinary but essential expenses for living.

America's small businesses are struggling to provide health care for their employees, and more people are less able to afford health care coverage. And while enormous pressure is placed on middle-income families, the largest health insurers are seeing massive profit growth.