

that time, as I mentioned, the proposal from the House would have cut things off at 8.5 percent. After getting these letters and talking to people in my State, I decided that was not good enough.

In one letter, Marilyn, from St. Paul, wrote:

Unemployment may be 8 percent for the State of Minnesota, but in our house it's 100 percent.

As Marilyn notes, unemployment is a national issue that does not simply begin or stop at State lines. Being unemployed in North Dakota, South Dakota, Iowa, Wisconsin, or any other State does not hurt any more or less than being unemployed in Minnesota. Deep, persistent unemployment hurts no matter where you happen to live, and the solution my colleagues and I crafted strikes the right balance in recognizing that fact.

Mariann from White Bear Lake, MN, wrote:

The tremendous stress of trying to search for an affordable job and raise two children on my own is overwhelming in itself. I cannot help that I live in one of the States with lower than 8.5 percent unemployment.

And Brian from Anoka wrote:

In fairness, what is good for one unemployed person should be good for all unemployed persons everywhere.

As the Senator from Illinois knows, sometimes we get letters that are all the same, from groups that organize, but these were individual letters from citizens out there who are hurting and who actually looked at the paper, heard the news, and decided: Wait a minute, the House bill, at 8.5 percent, does not help me. I am going to be left with nothing.

Simply put, this legislation in the Senate provides relief in a fair way to all those in need. This legislation helps jobless workers who desperately need relief. This legislation does not add to the deficit. This legislation is the right thing to do. Despite our best efforts, we have not been able to convince some of our colleagues on the other side of the aisle to agree that struggling middle-class Americans deserve an up-or-down vote on whether their unemployment benefits should be extended.

While my colleagues can perhaps afford to wait in their States—maybe the unemployed people in their States aren't writing them these letters—the more than 13,000 Minnesotans who will exhaust their unemployment benefits by the end of December cannot afford to wait. They have already waited too long. The time to act is now. This is the decent thing to do, and in a stretched economy, it is the right thing to do.

I know people are happy that we have started to see some good numbers on Wall Street. We need that. Maybe it will help us with our 401(k)s. But what do you say to Barbara, from Mahtomedi, MN, who understands Wall Street is doing well, but writes this:

My husband has been looking for a job since March and without unemployment to

help us out, I don't know what will happen. All four of us have been looking for steady employment for months. We drive old cars, bought a house within our means that we have been fixing up slowly by ourselves the past 22 years, buy everything used or on sale. Please don't let Minnesotans get left out in the cold—oh yes, don't forget about the heating bills coming in the next months. We need jobs and extending benefits will help us survive.

And what would my colleagues who are now stopping this bill from coming to the floor say to Carolyn of Woodbury, MN, who writes:

As of the early part of November of this year, I will have completed all my unemployment benefits. I have been looking for work daily since May of 2008 and have had several interviews but no offers yet. I like working, I am looking for work, I want to work and I am able to work but have not gotten any offers yet. Is there any chance that unemployment benefits will be extended? My unemployment is my only source of income and if I am not able to get that and don't have a job what will happen to a person like myself?

The time for partisanship is over. This is about people's lives and their ability to survive and to continue to provide for their families. I am very glad this Senate recognized that an unemployed person in Minnesota needs as much help as an unemployed person in Wisconsin, but now it is time to get the bill passed.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

HEALTH CARE REFORM

Mr. McCAIN. Mr. President, last year, the President of the United States, during his campaign, stated that there was going to be a change in the way we do business here in our Nation's Capitol, and that when it comes time for a conference on a bill that the American people would be brought in; that C-SPAN cameras would be there as Republicans and Democrats in a room that was open to the American public; that they would sit down and negotiate and come forward with results from a process that the American people would all be aware of. I have the direct quote here.

So what is going on today? Here is the bill from the HELP Committee. This is only some 600 pages. And over here we have the Finance Committee bill, some 1,500 pages. And not far from here—very close to here—there is a handful of Democrats and administration people behind closed doors who are reconciling these two bills. Sooner or later they will come out of that room—fortunately no longer smoke filled, but certainly with no access or information available for the American people—with perhaps a 2,100-page bill which has yet to be on the Internet so that the American people can see it. A remarkable process. No one should wonder then about the cynicism that is out there in America about the way we do business in our Nation's Capitol.

Less than 6 months ago, the President stood before a receptive audience

and he told the members of the American Medical Association, and I quote him:

Now, I recognize that it will be hard to make some of these changes if doctors feel like they're constantly looking over their shoulders for fear of lawsuits. Now I understand some doctors may feel the need to order more tests and treatments to avoid being legally vulnerable. That's a real issue. I do think we need to explore a range of ideas about how to put patient safety first, how to let doctors focus on practicing medicine. I want to work with the AMA so we can scale back the excessive defensive medicine that reinforces our current system. So this is going to be a priority for me.

That is a quote from the President back when he spoke to the AMA less than 6 months ago. Yet in this 600-page document there is not a mention of medical malpractice reform. In this 1,500-page document there are 20 pages of sense-of-the-Senate language. In case there is anyone who doesn't know what sense of the Senate means, it means exactly that. It does not mean law.

So the President of the United States talks to the AMA and tells them that we are going to bring about change. We are going to stop this practice of defensive medicine, which by the way, the estimates say account for as much as \$200 billion a year added to health care expenses. But what have we got here, and here, and going on behind closed doors? Does anybody believe the Democrats are going to come out with anything that is meaningful on medical malpractice reform? No. But what they will do is to say that we are going to try some demonstration projects. We are going to try some demonstrations.

In fact, on September 9, 2009, before a joint session of Congress, the President went a step further and stated:

Now, finally, many in this Chamber—particularly on the Republican side of the aisle—have long insisted that reforming our medical malpractice laws can help bring down the cost of health care. Now, I don't believe malpractice reform is a silver bullet, but . . . defensive medicine may be contributing to unnecessary costs. I know that the Bush administration considered authorizing demonstration projects in individual States to test these ideas.

And by the way, the reason why they did that was because they couldn't get meaningful malpractice reform through the Congress. Continuing the quote from the President:

I think it's a good idea, and I'm directing my Secretary of Health and Human Services to move forward on this initiative today.

Shortly thereafter, the President did issue a memo on medical malpractice reform where he stated:

We should explore medical liability reform as one way to improve the quality of care and patient-safety practices and to reduce defensive medicine.

So we all read with great interest about the new initiative. The memo went on to state:

We must foster better communication between doctors and their patients. We must ensure that patients are compensated in a fair and timely manner for medical injuries,

while also reducing the incidence of frivolous lawsuits. And we must work to reduce liability premiums.

The memo concluded with the grand policy crescendo and a request that the Secretary of Health and Human Services announce:

... that the department will make available demonstration grants to States, localities, and health systems for the development, implementation, and evaluation of alternatives to our current medical liability system.

There is nothing to be demonstrated. We already have two demonstration States—California and Texas—where medical malpractice laws are working. What is needed is leadership. Despite all the promises, the President and his party have yet to put forward any real medical malpractice liability reforms as part of either of the two health bills that have been shepherded through two Senate committees that are being merged behind closed doors by a select few.

I wish to point out that every time we tried to get an amendment on the 600-page bill—not the 1,500-page bill—those amendments to do even the slightest change in medical malpractice were voted down on a party-line basis. It is a failure of leadership.

How many patients are subjected to unneeded and unwarranted tests and procedures—some of which are certainly not painless—because the doctor has to perform defensive medicine? How many medical practitioners in America today are like the chief of surgery, the surgeon I met at the Palmetto Medical Center in Miami, who said: No, I don't have insurance. I couldn't afford the premiums. I don't have insurance. But if they sue me, all they can do is take everything I have. What kind of incentive is that for people to engage in the medical profession?

As I said, the Finance Committee bill—1,522 pages—contains 20 lines of nonbinding sense-of-the-Senate language that merely expresses a view that “health care reform presents an opportunity to address issues related to medical malpractice and medical liability insurance.” Let me repeat that. This is the 1,500-page bill. In 1,500 pages, there are 20 lines of sense-of-the-Senate language which says: “Health care reform presents an opportunity to address issues related to medical malpractice and medical liability insurance.”

I am not making that up. I am not making it up. It surely does present an opportunity to address issues related to medical malpractice reform. However, the other side passes on such an opportunity. It is a fact that just the narrowest specifics of medical liability reform could save \$11 billion this year alone. As I said, there are some estimates which claim it could be as much as \$200 billion when you look at the defensive medicine that is being practiced today.

California addressed this precise problem in 1975 by passing legislation

that capped jury awards for “non-economic” damages such as pain and suffering in medical malpractice suits. Not only does this cap reduce the amount of damages but it has had the effect of deterring unwarranted lawsuits. Malpractice filings have fallen in almost every county in California, medical malpractice insurance premiums have dropped, and patient costs have lessened.

In Texas, the trial lawyers had created such a problem for lawsuit abuse that patients didn't have access to doctors for several primary and specialty care services. Women couldn't find OB-GYNs. Several counties didn't even have neurosurgeons or anesthesiologists. Texas put in place a new structure that ensured patients got full compensation for their losses while at the same time curbing lawsuit abuse. In Texas, “Patients are the ultimate beneficiaries of the tort reform measures passed in 2003,” said Dan Stultz, M.D., president/CEO of the Texas Hospital Association.

It's clear that hospitals are able to attract more specialty physicians and offer new or expanded services that have enhanced patients' access to care and saved lives.

A survey conducted by THA—that is the Texas Health Association—in July 2008 found that 85 percent of hospitals are finding it easier to recruit medical specialists and subspecialists.

We could replicate these success stories across America, but the other side has refused to consider medical malpractice amendments to the bills. Instead, the Democrats and the White House are attempting to buy the silence of American medical associations and doctors everywhere who support reform by increasing the deficit by \$250 billion in Medicare physician payment increases.

CBO estimates the medical malpractice reform would reduce the Federal deficit by \$54 billion over the next 10 years. Others say it is as high as \$200 billion. The question is, is there anyone who denies that medical malpractice reform would not reduce health care costs in America? Is there anyone? Of course not. This bill is ample testimony of the influence of the trial lawyers of America on this body. We should be ashamed.

Talk is cheap. This issue requires real leadership. I believe the President needs to stand by his word and put forward real medical malpractice reforms rather than simply request applications for demonstration grants. I hope the President will demonstrate a willingness to listen and a willingness to reach a bipartisan agreement on this important issue. Patients, doctors, hospitals, and taxpayers need action.

We are going through an interesting process. Mr. President, 1,522-page and 622-page bills are being merged behind closed doors with a handful of elected representatives, leaving out not only everyone on this side of the aisle and most of the people on that side of the aisle, but the American people are

being left out of this process. The American people are getting more and more angry. I don't think this will go over well with the American people. In fact, I think they will steadfastly reject it.

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

The PRESIDING OFFICER (Mrs. GILLIBRAND). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WICKER. Madam President, do you know how long I have at this moment to speak to health care?

The PRESIDING OFFICER. The minority has a total of 27 minutes 15 seconds.

Mr. CORKER. I will not take 27 minutes. Thank you for letting me know that.

Madam President, I was on the Senate floor last week, which is a rarity for me. I spend very little time on this floor. Most of my time is spent in committee hearings. But I rise today to speak regarding the proposed Stabenow bill, a bill that is designed to pass on a \$¼ trillion in unfunded liabilities to future generations. As you know, we have been talking about health care reform in this body for some time. I have met numerous times with almost every official involved in health care reform and talked about how I thought it was unwise to look at taking \$404 billion out of Medicare and not using that money to deal with the issue of SGR or the “doc fix,” the fact that physicians across this country are going to see a 21-percent cut in fees in the very near future, and what that would do to the Medicare population depending upon these services.

I talked to the President on July 15 about how this body and the House were putting together pieces of legislation that did not make sense. I urged the President to use a responsible approach as it relates to health care reform. I have met with the chairman of the Finance Committee, the distinguished Senator from Montana, numerous times to talk about the Ponzi scheme that is being created by the Finance Committee in looking at how we finance something that is going to be a part of our citizens' lives for years to come and certainly a tremendous strain on the American budget.

I have been told from day one that in fact we were going to put together a health care reform bill that will be paid for. I think most people know now the way that is being looked at is we are going to take \$404 billion out of Medicare, which is an insolvent program, and leverage a new entitlement program—something the people of Tennessee do not believe makes much common sense. I know you are aware of the

fact that in addition to trying to solve this problem by taking money from an insolvent program, we also are planning to pass what Tennessee's Governor has called the mother of all unfunded mandates; making States, if you will, increase their Medicaid rolls at their expense so we in Washington can say we have reformed health care.

But I have to say one of the most sinister moves I have seen take place in my 2 years and 10 months being in the Senate is the Stabenow bill. The Stabenow bill seeks to say we are going to deal with SGR, that we are going to deal with our obligation in Medicare to pay physicians at least the rates they are making today. We are going to pass on a \$¼ trillion bill to future generations in order to get support from physicians across our country.

I talked to physicians in our State this weekend, a meeting at Tennessee Medical Association—the American Medical Association was on the line—and I was shocked at the response. Today the Hill cited a meeting where Senator REID and others met with physicians in order to buy their support. I know we all know the selling of one's body is one of the oldest businesses that has existed in the history of the world. So the AMA is now engaged in basically selling the support of its body by leveraging—by throwing future generations under the bus, by in essence urging that we as Congress pass this week a \$¼ trillion spending bill, unpaid for. If we would do that, we might get their support in health care reform.

I have to tell you, I have never witnessed something more sinister than the Stabenow bill. It is my hope that this week Senators on both sides of the aisle will come together and realize we have to graduate.

We talk fondly about the “greatest generation,” our parents and others, who did so much in the way of sacrificing for this country to make sure that generations who came after had a better way of life. I am sad to say that—while I consider it the greatest privilege of my life to serve in this body, and I thank the citizens of Tennessee for allowing me this lease, this 6-year lease to serve in this body to try to conduct myself in a way that will put our country's long-term interests first—I am sad to say I serve during what I would call the “selfish generation.” The political leadership we have today, of which we are a part, no doubt embodies the most selfish policies this country has seen in its history. There is no question that is the case; that for short-term political gain, in order to make some constituents happy, in order to give people what they want with no sacrifice, we are willing to throw future generations under the bus.

It is my hope, this week even, this body will graduate from that selfish existence, doing things we know absolutely are undermining the future of this country, and that we will come together and look at this legislation in

the appropriate way. I hope there will be Senators on both sides of the aisle that revolt at the majority leader's push to purchase the support of physicians all across our country by, in essence, creating legislation that puts our country another \$¼ trillion in debt.

Madam President, I wanted to say this is not at all what the President said he would do. This President has said he would offer health care reform that balanced the budget. The American people understand by doing what the Stabenow bill seeks to do this week, that is absolutely not true. This administration absolutely is not living up to the commitment it has given the people of this country.

This body needs to stand up and do what is right. I hope we will do that this week. I hope we will defeat the Stabenow bill as it now has been introduced. I hope we will work together to do those things that are responsible.

I absolutely agree physicians around this country do not need to take a 21-percent cut. I have probably been the most outspoken person on that issue in the Senate since I came here. But what we need to do is balance our resources, not continue to do things we think make sense on one hand to the detriment of future generations. It is my hope this will be embodied as part of the overall health care reform package.

This gets to my point I have been making on this floor and in committees and other places for months; that is, it makes absolutely no sense to use \$404 billion out of Medicare to finance health care reform and not deal with SGR. I hope other Senators will join me in revolting against this most sinister act that, hopefully, will not come to fruition this week.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded the call the roll.

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

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

HEALTH CARE REFORM

Mr. ENSIGN. Madam President, I rise today to discuss why meaningful medical liability reform must be included in the health care reform package. Americans spend far more on lawsuits than any other country, and more than twice as much as all countries except for one.

According to a recent study conducted by the Tillinghast-Towers Perrin Group, the direct cost of health care lawsuits is \$30 billion per year. These costs are multiplied by the indirect costs of lawsuits, especially doctors ordering costly tests out of fear of being sued.

Estimates of wasted money spent on unneeded tests range from over \$100

billion each year to nearly \$250 billion annually. In a 2006 article in the *New England Journal of Medicine*, it suggests that as much as 40 percent of medical liability lawsuits are frivolous.

Medical liability insurance premiums are threatening the stability of our Nation's health care system. These rates are forcing many physicians, hospitals, and other health care providers to move out of high liability States, limit the scope of their practices, and some even to close their doors permanently. This crisis is affecting more and more patients. It is threatening access to reliable, quality health care services.

I have a good friend from Nevada who practices obstetrics. In his practice he specializes in high-risk pregnancies. Because of medical liability problems that we have seen in the past several years, his insurance company limits the number of high-risk pregnancies in which he can assist.

If you are a woman and you are pregnant with a high-risk pregnancy, it would seem to me you would want the doctors who specialize in high-risk pregnancies to see you. This only makes sense. However, because of the medical liability crisis we are facing in this country, the best of the best are limited in the number of cases they can handle.

Because of the unaffordable medical liability insurance premiums, it is now common for obstetricians to not deliver babies and for other specialists to no longer provide emergency calls or provide certain high-risk procedures.

Ask yourself this question: What if I were in need of an emergency procedure? What if I were the woman who had a high-risk pregnancy and could not find a specialist to provide me with the health care I needed?

The medical liability crisis is threatening patient access to reliable, quality health services all across America. Additionally, costly medical liability premiums have forced some emergency rooms to shut down temporarily in recent years.

In my home State of Nevada, our level 1 trauma center was closed for 10 days in 2002. This closure left every patient within a 10,000-square-mile area unserved by a level 1 trauma center.

Unfortunately, a gentleman by the name of Jim Lawson was one of those in need of a trauma unit at that time. Jim lived in Las Vegas and was just 1 month shy of his 60th birthday. He had recently returned from visiting his daughter in California. When he returned, he was injured in a severe car accident. Jim should have been taken to the University Medical Center's level 1 trauma center. Unfortunately, it was closed.

Instead, Jim was taken to another emergency room where he was stabilized and then transferred to Salt Lake City's trauma center. Tragically, Jim never made it that far. He died that day due to cardiac arrest caused by blunt force from physical trauma.

Why was Nevada's only level 1 trauma center closed that day? Due to the