

[Rollcall Vote No. 349 Ex.]
YEAS—70

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|-----------|------------|-------------|
| Akaka | Franken | Murkowski |
| Alexander | Gillibrand | Murray |
| Baucus | Gregg | Nelson (NE) |
| Bayh | Hagan | Nelson (FL) |
| Begich | Harkin | Pryor |
| Bennet | Hatch | Reed |
| Bingaman | Inouye | Reid |
| Boxer | Johnson | Rockefeller |
| Brown | Kaufman | Sanders |
| Burr | Kerry | Schumer |
| Byrd | Kirk | Shaheen |
| Cantwell | Klobuchar | Shaw |
| Cardin | Kohl | Snowe |
| Carper | Landrieu | Specter |
| Casey | Lautenberg | Stabenow |
| Chambliss | Leahy | Tester |
| Collins | Levin | Thune |
| Conrad | Lieberman | Udall (CO) |
| Cornyn | Lincoln | Udall (NM) |
| Dodd | Lugar | Warner |
| Dorgan | McCaskill | Webb |
| Durbin | Menendez | Whitehouse |
| Feingold | Merkley | Wyden |
| Feinstein | Mikulski | |

NAYS—29

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|-----------|----------|-----------|
| Barrasso | DeMint | McCain |
| Bennett | Ensign | McConnell |
| Bond | Enzi | Risch |
| Brownback | Graham | Roberts |
| Bunning | Grassley | Sessions |
| Burr | Inhofe | Shelby |
| Coburn | Isakson | Vitter |
| Cochran | Johanns | Voinovich |
| Corker | Kyl | Wicker |
| Crapo | LeMieux | |

NOT VOTING—1

Hutchison

The PRESIDING OFFICER. On this vote the yeas are 70, the nays are 29. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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 I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS CONSENT AGREEMENT—S. 1963

Mr. REED. Mr. President, I ask unanimous consent that upon disposition of the nomination of Judge David Hamilton and the Senate resuming legislative session that the Senate then proceed to the consideration of Calendar No. 190, S. 1963, Veterans Health Care Initiatives, and that the bill be considered under the following limitations: that general debate on the bill be limited to 30 minutes equally divided and controlled between Senators AKAKA and BURR or their designees; that the only amendment in order be a Coburn amendment regarding funding priorities which is at the desk and that it be printed in the RECORD once this agreement is entered; that debate on the amendment be limited to 3 hours, with 2 hours under the control of Senator COBURN and 60 minutes under the control of Senator AKAKA or his designee; that upon the use or yielding back of all time, the Senate proceed to vote in relation to the Coburn amendment; that upon disposition of the Coburn amendment, the bill, as amended, if amended, be read a third time, and the

Senate then proceed to vote on passage of the bill.

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

(The amendment (No. 2785) is printed in today's RECORD under "Text of Amendments.")

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

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

Mr. BURRIS. I ask unanimous consent to speak as in morning business.

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

HEALTH CARE REFORM

Mr. BURRIS. Mr. President, as I address this Chamber today, there is a broad consensus across the country that our health care system is broken. It simply doesn't work for Americans anymore. Everyone agrees that we need real comprehensive health care reform. In order to accomplish this, I believe we must include a strong public option to restore competition, cost savings, and accountability to the health care insurance industry. In fact, I have stated before that I will not vote for any reform measure that fails to include a strong public option.

A few of my colleagues are still not convinced. Some have honest questions. But there are others who are not interested in winning this argument on the merits. A few of my colleagues across the aisle are trying to stop this Congress from passing any health care reform at all. Some of my distinguished Republican friends have said our proposals are simply too expensive. They say a trillion dollars is too high a price to pay for a better health care system.

I beg to differ. We already pay far too much for health care. Our reform bill would reduce costs over the long term. It would allow consumers to hold insurance companies accountable for the first time in many years. It would restore real competition to markets that are currently monopolized by a few big corporations. It would accomplish all of that without adding to the budget deficit. Yet my colleagues continue to insist that health care reform would be too expensive. Despite the number of Americans suffering under our broken system, they want to talk about fiscal responsibility instead of health care reform. My Republican friends have simply lost their credibility when it comes to this issue. They say they would not support reform that will save lives and improve health outcomes for millions because it costs too much. Yet under a Republican President, they were willing to write bigger and bigger checks to benefit the wealthy.

In 2001, when President Bush asked Congress to pass tax cuts that mostly

helped the super rich, the total cost came to \$1.35 trillion over 10 years. That is more than \$300 billion more than our health care reform bill, and it provided significant benefits to far fewer Americans.

More than half of the current Republican caucus was serving in the Senate at the time of this vote. Did they try to block the bill? Did they stand up and say: \$1.3 trillion for the super rich—that is wasteful, irresponsible, and far too costly? No, they did not.

When President Bush called, they answered. My Republican friends voted in favor of this massive spending program, even though it added more than \$1 trillion to the deficit.

Many of the same people now want to put the brakes on a deficit-neutral health care reform bill designed to help millions of ordinary Americans.

Later in 2003, just as this country began to spend hundreds of billions of dollars to conduct two wars, President Bush asked for yet another tax cut. This tax cut also benefited the richest of the rich and added \$330 billion more to the deficit.

But did my distinguished Republican colleagues urge fiscal responsibility? Did they demand that the President explain how he would finance the wars or balance the budget before they voted on another massive tax cut? No, they did not. Their vocal support for fiscal responsibility was nowhere to be found. Once again, they voted overwhelmingly for the second round of tax cuts.

Yet as I address this Chamber today, a few of the same Senators are doing everything they can to stop us from passing health care reform.

I would urge the American people to consult the record for themselves. The same voices that now oppose extending health care coverage actually supported spending significantly more money to pad the bank accounts of the richest people in this country.

It is the same story for expensive programs such as Medicare Part D. More than half of the Republicans still in the Senate voted for \$400 billion of new spending back in 2003. Almost all of these distinguished Senators voted time and again to fund the ongoing wars in Iraq and Afghanistan, which have cost the American taxpayers more than \$1 trillion and far too many American lives.

I do not mean to suggest every single one of these spending programs was a bad idea. But I would like to point out that when my Republican colleagues talk about "fiscal responsibility," they are talking about an issue on which they have lost their credibility. They recklessly added trillions of dollars to the deficit under a Republican President, but today they oppose health care reform even though it will be paid for by cost offsets. Their actions simply do not match their words. They are placing cynical politics ahead of good policy.

So I have a question for my Republican friends who have been Members

of this Senate since 2001: If they supported almost \$2 trillion of deficit spending for tax relief for the rich, then, I ask them, exactly how much are we allowed to spend for health care that will benefit millions of people across this country?

Mr. President, 45,000 Americans die every single year because they do not have insurance and cannot get the quality care they need. Without competition in the industry, insurance companies have raised premiums, denied benefits, and refused coverage to millions. So I ask my colleagues: How much is too much for this Congress to spend to save these lives?

My colleagues like to talk about responsibility, so I put it to them that the only responsible course of action is to pass this health care bill, and pass it now. That is the reaction we need.

Unfortunately, there are some in this Chamber who are not interested in addressing the issue of health care reform. There are some who do not want to have an honest, open debate on the subject. They want to kick the can further down the road, as our predecessors have done time and time again for the last 100 years.

That would be the easy answer—to leave it to someone else to solve the difficult problem of health care reform after the problem has gotten even worse, to settle for the status quo or put a band-aid on a gaping wound and hope that future legislators will muster the political will that a century of lawmakers has lacked. There are some in this body who would settle for this.

But I believe the American people deserve better. Especially in difficult times, they demand better of their representatives in Congress. So I say to my colleagues, as great leaders have said to us time and time again throughout our history: Let's seize this moment to do what is right, not what is easy. Let's summon the will to succeed where others have failed.

It is time to deliver on meaningful health care reform. It is time for competition, cost savings, and accountability in the insurance industry. It is time to be honest with the American people.

Friends, colleagues—Republicans and Democrats—this is no time for partisan games and empty rhetoric. This is time for action. Millions of Americans are counting on us to make health care reform a reality, and we must not let them down. I will say that again. We must not let them down.

Mr. President, I yield the floor.

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. 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.

Mr. GRASSLEY. Mr. President, I oppose the nomination of Judge David

Hamilton to be a Seventh Circuit Appeals Court judge. I have serious concerns about this nomination and will be voting not to confirm him.

During his time as a Federal judge on the U.S. District Court for the Southern District of Indiana, Judge Hamilton has issued a number of highly controversial rulings and, more importantly, has been reversed in some very prominent cases. In my opinion, these decisions strongly indicate that Judge Hamilton is an activist judge who will ignore the law in favor of his own personal ideology and beliefs.

For example, in one case, Judge Hamilton succeeded in blocking enforcement of an informed consent law for 7 years. In that case, called *A Woman's Choice v. Newman*, Judge Hamilton struck down an Indiana law requiring that certain medical information be given to a woman in person before an abortion can be performed. The Seventh Circuit overruled Judge Hamilton's decision, stating:

For 7 years, Indiana law has been prevented from enforcing a statute materially identical to a law held valid by the Supreme Court in *Casey*, by this court in *Karlin*, and by the Fifth Circuit in *Barnes*. No court anywhere in the country (other than one district judge in Indiana) has held any similar law invalid in the years since *Casey*. . . . Indiana (like Pennsylvania and Wisconsin) is entitled to put its law into effect and have that law judged by its own consequences.

That was the circuit court overturning Judge Hamilton. It seems to me that Judge Hamilton went out of his way to make his finding and actually block the Indiana law. That is not the proper role of a judge.

In addition, Judge Hamilton has shown hostility against the expression of religion in the public square. In two prominent cases, he ruled against public prayer in the State legislature and religious displays in public buildings, and in both cases he was reversed. In the case of *Hinrichs v. Bosma*, Judge Hamilton enjoined the speaker of the Indiana house of representatives from permitting sectarian prayer. Judge Hamilton ruled that the Indiana State legislature was prohibited from starting its session with prayers, specifically those that expressly mentioned Jesus Christ, but that it would be permissible for a prayer to mention Allah. The Seventh Circuit overturned Judge Hamilton's decision in *Hinrichs*, and subsequently the Indiana house passed a resolution 85-to-0 opposing Judge Hamilton's ruling.

Then in *Grossbaum v. Indianapolis-Marion County Building Authority*, Judge Hamilton ruled that a county could prohibit the display of a menorah in a nonpublic forum. The Seventh Circuit unanimously reversed Judge Hamilton, noting that the judge disregarded relevant Supreme Court precedent to reach his ruling and that he failed to recognize a rabbi's first amendment right to display the menorah as symbolic religious speech.

Judge Hamilton also ignored clear statutory mandate so he could impose

his own personal beliefs when sentencing criminal defendants. Example: In the 2008 case *U.S. v. Woolsey*, Judge Hamilton disregarded an earlier conviction in order to avoid imposing a life sentence on a repeat drug offender. The Seventh Circuit reversed the decision, admonishing Judge Hamilton, specifically stating that he was "not free to ignore" prior conviction because "statutory penalties for recidivism . . . are not optional, even if the court deems them unwise or an inappropriate response to repeat drug offenders."

In another case, *U.S. v. Rinehart*, Judge Hamilton used his court opinion to request clemency for a police officer who pled guilty to two counts of producing child pornography. In this case, the police officer had engaged in and videotaped "consensual" sex with two teenagers.

In addition, in writings and speeches, Judge Hamilton has indicated that he approves of the concept that judges should make policy from the bench. For example, he has embraced President Obama's empathy standard, a standard so radical that even the new Supreme Court Justice Sotomayor had to rebuke it at her confirmation hearings. In response to written questions for his confirmation hearing, Judge Hamilton answered this way:

Federal judges take an oath to administer justice without respect to persons, and to do equal right to the poor and to the rich. Empathy—to be distinguished from sympathy—is important in fulfilling that oath. Empathy is the ability to understand the world from another person's point of view. A judge needs to empathize with all parties in cases—plaintiff and defendant, crime victims and accused defendant—so that the judge can better understand how the parties came to be before the court and how legal rules affect those parties and others in similar situations.

To empathize with the parties is not the proper role of a judge. Rather, the proper role of a judge is to apply the law to the facts in an impartial manner, and that is what we refer to as blind justice.

Further, in a 2003 speech, Judge Hamilton endorsed the idea that the role of a judge includes "writing footnotes to the Constitution" through evolving case law. He said:

Judge S. Hugh Dillin of this court has said that part of our job here as judges is to write a series of footnotes to the Constitution. We all do that every year in cases large and small.

Oddly enough, the last time I checked, it was the role of Congress to write laws, not the judicial branch. Judge Hamilton's personal bias has been noted by lawyers who practice before him. In fact, statements of local practitioners in the *Almanac of the Federal Judiciary* described Judge Hamilton as "the most lenient of any judges in the district." Another quote: "One of the more liberal judges of the district." Another quote: "Goes out of his way to make the defendant comfortable." Another quote: "He is your

best chance for downward departures.” Lastly, “in sentencing, he tends to be very empathetic to the downtrodden, or to those who commit crimes due to poverty.”

Contrary to how the White House has tried to characterize Judge Hamilton, I believe that the record amply demonstrates that Judge Hamilton is an activist judge. He has taken radical positions, and a number of his rulings indicate that Judge Hamilton will impose his own personal beliefs and values in cases. We should not promote an individual whose track record clearly demonstrates that he will carry out an outside-of-the-mainstream personal agenda on the Federal appeals court. For these reasons, I will oppose the nomination of Judge Hamilton to the Seventh Circuit. If he was going to serve on a circuit, as many times as he has been overruled, it would be more appropriate for him to be on the Ninth Circuit, where a lot of those decisions on appeal are overturned by the Supreme Court—about 9 times out of 10.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I ask unanimous consent to speak as in morning business.

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

NATIONAL DEBT

Mr. LEMIEUX. Mr. President, the clock has struck 12 on a \$12 trillion debt. Like Cinderella when she was revealed when the clock struck 12, this Congress is now revealed—revealed for the problem it has in spending more than we can afford. We are being a body and an institution that spends money without thinking about the future of this great country. It spends the money of our children and our grandchildren.

It took this country 193 years to spend a trillion dollars and to get a trillion dollars into debt. We are now \$12 trillion into debt as of today. That \$12 trillion is the equivalent of \$40,000 per person, \$107,000 per household. This is what American families are now responsible for, because unlike American families who sit around their kitchen tables and try to make ends meet, and unlike the States that have to balance their budgets, this Congress spends more than it has. There is no evaluation in this Congress about how much money is being taken in versus how much money we spend.

Instead, we raised this year \$1.4 trillion in debt, more debt in a single year than the past 4 years combined.

Outside this Chamber, outside the main entrance, is a clock, called the Ohio Clock—the fabled clock that has been in this institution for more than a hundred years. It stands there to tell the time. I suggest that standing next to that clock should be the debt clock to remind the Members of this Senate, and perhaps our friends in the House, that we are spending money we cannot afford to spend, and it is risking the future of our children and grandchildren.

As you know, I have three small boys, Max, Taylor, and Chase, 6, 4, and 2, and a baby on the way. We worry for their future—just like Americans across this country and my fellow Floridians are worrying for the future of their children. How can we afford this and continue to spend more than we have?

I have been coming to the floor weekly to talk about the various appropriation bills I have been voting on—and, frankly, voting against—because they spend more and more of the people's money and put this country further into debt.

Today, we have marked this occasion with \$12 trillion in debt—an amount of money that is hard to fathom, an amount of money that is so large it is hard to comprehend. But we know that every family in America is now responsible—every household—for \$107,000. That debt now rides upon their shoulders.

In a week—perhaps even this week—Democrats in the Chamber are going to introduce a health care reform bill that is estimated to spend another \$1 trillion. This bill will raise taxes, cut Medicare, and increase premiums—another large governmental program, when we cannot afford the programs we have. We should focus on spending the money we have, spending it more efficiently and effectively, before we go on to create a new program, a new bureaucracy, and more obligations than we can afford.

The Congressional Budget Office estimates that the health care plan being brought forth by the Democrats in this Chamber will spend 24.5 percent of GDP, 19 percent in revenue only. So we have 19 percent in revenue, but 24.5 percent of GDP, which is a huge unsustainable gap. It was recently reported that the deficit for October alone is \$176 billion—\$26 billion more than estimates by economists. In fact, the debt increased by \$40 billion just over this past weekend.

Our spending is out of control. The Federal Government does not recognize it. This Congress cannot afford the programs it has, let alone the programs it wants. So I am here to sound the alarm. I could not let this day pass as we hit this \$12 trillion mark in national debt.

I look forward to coming back to the floor to explain again and again to the American people that this is a problem that must be solved. We cannot continue to spend our children's and grandchildren's future.

I yield the floor.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Delaware is recognized.

Mr. KAUFMAN. Mr. President, I ask to speak as in morning business.

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

IN PRAISE OF ANN AZEVEDO

Mr. KAUFMAN. Mr. President, I rise once more to honor an outstanding Federal employee.

Next week, American families will gather around dinner tables in celebration of Thanksgiving.

Thanksgiving is a time for coming together. In earlier ages, members of an extended family usually resided in close proximity to one another. Today, however, the typical American family is spread across the country, with members far in distance even if close in spirit.

Americans of all backgrounds and from all walks of life will be travelling long distances to be with their loved ones. It is no wonder that Thanksgiving weekend is one of the busiest travel periods of the year.

Tens of millions of us will be driving, flying, and taking trains or ferries next week. For some it will be stressful, for others exciting. Most, though, will do it without even realizing how much work goes into keeping American travelers safe.

The Department of Transportation employee whose story I will share today has been instrumental in ensuring the safety of those who travel. But before I tell you about this outstanding public servant, I want to reflect on how important transportation is for America.

From its humble beginnings, ours has been a Nation on the move. In George Washington's day, their mercantile spirit drove our founding generation to dig canals and clear roads across the Appalachians. Steamships and railroads fueled the expansion across the West and helped close the frontier. Air travel in the last century brought every corner of our 50 States ever closer and opened new opportunities for the growth of business and tourism.

This march of progress in transportation technology has not been a smooth ride. When the railroads were new, train wrecks were fairly common. In fact, President-Elect Franklin Pierce was en route to Washington for his inauguration when his train derailed, tragically killing his 11-year-old son.

Travel by ferry or steamship on our rivers and lakes was far from safe in those days. For pioneer families, roads were often impassible during winter-time, and many lost their lives just trying to get to the West. While air travel is the safest form of transportation in our day, it was not always the case.

Making sure that our Nation's “planes, trains, and automobiles” are safe remains one of our highest priorities. My home State of Delaware, like every other State—like Montana—depends on a top-notch transportation infrastructure to facilitate economic activity, moving people and goods across markets.

Travel can and should be a safe and fun experience. No one should ever have to worry that the vehicles on our roads, rails, rivers, or in our skies are unsafe. That is where the hardworking men and women of the Department of