

of a mouse or a few keystrokes on a computer can be very useful in providing more cost-effective health care. But the use of advancing technologies to access and share health information can also lead to a loss of personal privacy.

Without adequate safeguards to protect health privacy, many Americans will simply not seek the medical treatment that they need for fear that their sensitive health information will be disclosed without their consent. And those who do seek medical treatment assume the risk of data security breaches and other privacy violations. Likewise, health care providers who perceive the privacy risks associated with health IT systems as inconsistent with their professional obligations will avoid participating in a national health IT system.

The economic recovery package takes several important steps to avoid these pitfalls and to protect Americans' health information privacy. First, the provisions give each individual the right to access his or her own electronic health records and the right to timely notice of data breaches involving their health information. The economic recovery bill also places critical restrictions on the sale of sensitive health data and requires that the Department of Health and Human Services educates and conducts outreach to American consumers and businesses regarding their privacy rights and obligations. Lastly, the bill enhances the enforcement tools available to the States, as well as to Federal authorities, to deter lax health information privacy. These key privacy safeguards must not be weakened as the Senate considers the economic recovery bill.

Of course, more can—and should—be done in the weeks and months ahead to further improve health information privacy, such as strengthening the rights of consumers to control their own electronic health records. In Vermont, we have formed a public-private partnership that is charged with developing Vermont's statewide electronic health information system, including a policy on privacy. I believe that in order for a national health IT system to succeed, we in Congress should follow Vermont's good example and work together for the long term with public and private stakeholders to ensure the privacy and security of electronic health records.

As the Senate considers the economic recovery package, we face many difficult challenges in our Nation. The challenge of finding the right balance between privacy and efficiency for a national health IT system is just one, but it is an important test that we must meet head on. Without meaningful privacy safeguards, our Nation's health IT system will fail its citizens. In his inaugural address, President Obama eloquently noted that in our new era of responsibility "there is nothing so satisfying to the spirit, so

defining of our character than giving our all to a difficult task." The privacy safeguards in the economic recovery package take an important step toward tackling the difficult but essential task of ensuring meaningful health information privacy for all Americans.

Again, I commend the lead sponsors of the economic recovery bill and President Obama for their commitment to include meaningful health privacy protections in the bill. I also commend the many stakeholders, including the Center for Democracy & Technology, Consumers Unions, the American Civil Liberties Union, and Microsoft, that have advocated tirelessly for meaningful health IT privacy protections in this legislation. I urge all Members to support the health IT privacy protections in the bill, so that our national health care system will have the support and confidence of the American people.

I ask to have a copy of a February 1, 2009, editorial from the New York Times in support of funding protections for patients' privacy entitled, "Your E-Health Records," printed in the RECORD following my full statement.

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

[From the New York Times, Feb. 1, 2009]

#### YOUR E-HEALTH RECORDS

As part of the stimulus package, \$20 billion will be pumped into the health care system to accelerate the use of electronic health records. The goal is both to improve the quality and lower the costs of care by replacing cumbersome paper records with electronic records that can be easily stored and swiftly transmitted.

The idea is sound, but it also raises important questions about how to ensure the privacy of patients. Fortunately, the legislation would impose sensible privacy protections despite attempts by business lobbyists to weaken the safeguards.

With paper records the opportunities for breaches are limited to over-the-shoulder glimpses or the occasional lost or stolen files. But when records are kept and transferred electronically, the potential for abuse can become as vast as the Internet.

Electronic health records that can be linked to individual patients are already protected by laws that apply primarily to hospitals, doctors, nursing homes, pharmacists, laboratories and insurance plans. The stimulus bill that has passed in the House, and a similar bill awaiting approval in the Senate, would strengthen the privacy requirements and apply them more directly to "business associates" of the providers, like billing and collection services or pharmacy benefit managers, that have access to sensitive data but are not readily held accountable for any misuse.

The potential for harm was spelled out by the American Civil Liberties Union in a recent letter to Congress. Employers who obtain medical records inappropriately might reject a job candidate who looks expensive to insure. Drug companies with access to pharmaceutical records might try to pressure patients to switch to their products. Data brokers might buy medical and pharmaceutical records and sell them to marketers. Unscrupulous employees with access to electronic records might snoop on the health of their colleagues or neighbors.

The bills pending in Congress would go a long way toward preventing such abuses. They would outlaw the sale of any personal health information without the patient's permission, mandate audit trails to help detect inappropriate access, and require that patients be notified whenever their records are lost or used for an unauthorized purpose. They would also beef up the penalties for noncompliance and allow state attorneys general to help enforce the rules—a useful backup in case the federal government falls down on the job. The House version would also encourage the use of protective technologies, like encryption, to protect personal medical information that will be transmitted.

Health insurance plans and some disease management groups are complaining that the new requirements would impose administrative burdens that could actually impede the use of electronic records and interfere with coordination of care. They want to ease the marketing restrictions, notify patients only if security breaches are harmful, and keep the attorneys general out of the enforcement role.

It should be possible through implementing regulations to fine-tune the privacy requirements so that they do not disrupt patient care. Congress must make every effort to ensure that patients' privacy is protected.

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

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

#### MORNING BUSINESS

Mr. DURBIN. Mr. President, 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.

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

#### THE STIMULUS BILL

Mr. DURBIN. Mr. President, my colleague and friend Senator COBURN of Oklahoma spoke at length about our Nation's deficit. I share his concern about the impact of debt on future generations. It is an interesting moment in time when many of my friends from that side of the aisle are raising the issue of deficits and debt. We are in one of the most serious economic crises of our time—maybe the most serious since the Great Depression. This President, recently inaugurated, 2 weeks ago, inherited the worst economic situation since Franklin Roosevelt in the Great Depression in 1933. He inherited a debt that was unimaginable 8 years ago when the previous President began his administration. When President Bush came to office, our national debt was in the range of \$5 trillion. When he left office, he doubled that national debt to more than \$10 trillion—in an 8-year period of time. The accumulated debt of the United States of America,

from its inception to that moment, was \$5 trillion; in 8 years President Bush doubled the national debt.

Many people believe it is going to continue to grow because of some of the decisions he made. One was to wage a war and not pay for it, adding almost \$1 trillion to our national debt in the process. Many other decisions, such as cutting taxes at a time when our country couldn't afford it, and it turned out to be foolhardy and with little positive impact on our economy. President Obama inherited that. Now he is faced with not only that debt, which my colleague from Oklahoma has aptly described, but also an economic crisis that cannot be ignored.

We were told a week ago that the gross domestic product of the United States of America had declined precipitously for the first time in 25 years. It is an indication that our sense of economic decline has been borne out by the numbers and statistics. We see it in every State with increased unemployment. So President Obama is faced with a terrible situation: the largest deficit and debt in the history of the United States, left by the previous President, and the worst economic crisis in 75 years.

Well, my colleague who spoke is a medical doctor. He knows the first thing you have to do in the most serious trauma cases is to try to stabilize the patient, and that is what President Obama is trying to do, stabilize the economy. Every economist—virtually every one—liberal and conservative, agrees that you cannot stabilize the economy by cutting spending. You have to do the opposite. You have to encourage economic activity, economic growth, business, jobs. Those are the things that have to be done, and the Government must spend money, even if it is in debt. Failing to do that will cause our economy to decline even further, and more suffering will be borne by the families and businesses across America.

So when the Senator from Oklahoma comes to the floor and says this is the wrong time to spend money, I have to tell him that there is no recourse but to try to get this economy moving forward by creating good-paying jobs in America, investing in our future, making sure we are moving toward energy independence, trying to prepare our educational resources for the 21st century by modernizing labs and libraries and classrooms, trying to bring the kind of changes to health care where technology will make health care more affordable and safer for patients across America. These are investments that will not only help us through the current recession but will pay off for decades to come.

We are clearly spending this money in a deficit situation because we have no choice. Across the Rotunda in the House of Representatives, when President Obama's recovery and reinvestment bill came forward, not a single Republican Representative would vote

for it. That is unfortunate. The President reached out to them personally and asked them to join him in a bipartisan effort, both political parties cooperating and working together. Sadly, it didn't occur.

I hope that is not the case in the Senate. I trust that some Republican Senators will come forward and realize that we are making a good-faith effort to accommodate any reasonable change they want to make to the program. If they want to reduce spending in some areas, we are open to it. If they have ideas that are better than ours, we are open to them as well. I tried to make that clear. I think my colleagues on this side and the White House have tried to make that clear.

At the end of the day, we are going to have to face reality. We will be spending money now to try to stop this economic tailspin. Once we get the economy stabilized and start investing toward growth again so people have peace of mind about their jobs and businesses, savings, and the future, then we can address responsibly, as we must, the deficit and debt situation. I look forward to working with the Senator from Oklahoma when that day arrives. Right now, we have to stabilize the patient.

I say to my friend, Dr. COBURN, join us in this important effort, and then we can join hands together and try to find the way through the fiscal problems we are currently facing.

#### SITUATION IN SRI LANKA

Mr. LEAHY. Mr. President, The ethnic conflict in Sri Lanka that has waxed and waned for decades costing the lives of tens of thousands of people has exploded into a full scale war, and it is civilians who are bearing the brunt of the carnage.

The origins of the conflict arise from decades of the Sinhalese majority's systematic discrimination against the Tamil minority and its denial of the Tamils' meaningful participation in the political process. The Sri Lankan army is almost exclusively Sinhalese. Successive Sinhalese-dominated governments have failed to effectively address these longstanding injustices.

Over the years, peaceful demonstrations by Tamils have been met with violence by Sinhalese extremists, which has in turn fostered violent extremism on the Tamil side.

In recent weeks, as the Sri Lankan army has seized control of most of the northern strongholds of the Tamil Tigers, or LTTE as they are otherwise known, the situation has gone from dire to the verge of catastrophe for the estimated 250,000 vulnerable civilians who are trapped in a so-called "safe zone."

The LTTE has a history of suicide bombings and other indiscriminate attacks against civilians, using civilians as shields, and preventing civilians under their control from escaping to government areas. Several hundred

local staff of the United Nations and international humanitarian organizations are reportedly trapped because the LTTE refuses to allow them to leave. The LTTE has been designated a foreign terrorist organization by the United States.

For its part, the Sri Lankan army insists it is targeting the LTTE, not civilians. But the army has also acted in ways that have blurred any meaningful distinction between itself and the LTTE. It has reportedly shelled areas populated by civilians, including hospitals, causing hundreds of casualties, summarily executed suspected LTTE sympathizers, and detained those who have fled LTTE areas, including women and children, in militarized camps where they are exposed to great hardship and danger.

The United Nations says a compound sheltering U.N. national staff inside the safety zone was shelled on January 24 and 25, killing at least 9 civilians and wounding more than 20. On January 26, another artillery attack reportedly narrowly missed UN local staff working in the safety zone but caused dozens of civilian deaths. The International Committee of the Red Cross has said that "[h]undreds of patients need emergency treatment and evacuation to [a] hospital in the government-controlled area."

In the past 2 days, another hospital was reportedly shelled multiple times, resulting in more civilian deaths and injuries.

Human Rights Watch reports that since last September, when the Sri Lankan government ordered the withdrawal of most UN and nongovernmental humanitarian organizations, as well as journalists, from the conflicted area, a grave humanitarian crisis has developed with acute shortages of food, shelter, medicine, and other humanitarian supplies.

The Sri Lankan government has a duty to respect the rights and protect the safety of all Sri Lankan citizens, whatever their ethnic origin or political views. Instead, the government has embarked on a strategy to defeat the LTTE militarily and in doing so has shown disregard for the laws of war. Rather than protecting the Tamil people, the government has often contributed to their suffering. Its strategy has been to cordon off the area and blame everything, including its own violations, on the LTTE.

Since 1984, successive peace talks have failed, as both the LTTE and the Sri Lankan government have reneged on their agreements, and the government has failed to provide the vision and leadership necessary to build a multi-ethnic consensus. Both sides' extreme ethnic nationalist agendas have caused widespread human suffering. Both sides are accountable.

I have no sympathy for the LTTE, which has brought misery upon the Tamil people it professes to represent. But while the LTTE has been severely weakened, it is unlikely to disappear,