

not take action unless Congress requires them to do so. This time, Congress needs to show it is serious about protecting passengers.

By our actions, we can show the American people that we are on their side and are working to protect their interests. Never again, should a family be forced to sit on a tarmac for 10 hours, deprived of the most basic of necessities. Canada was able to pass their passenger bill of rights legislation, so if Canada can do it, then there is no reason that Congress cannot do the same. By acting swiftly, and with resolve, we can take up and pass an FAA Reauthorization that includes the Passenger Bill of Rights, we can restore America's trust in our airlines and guarantee them a standard of service we should all be entitled to.

Mr. BINGAMAN (for himself, Mr. LEAHY, Mr. LIEBERMAN, and Mr. CARDIN):

S. 214. A bill to amend title XXI of the Social Security Act to permit qualifying States to use their allotments under the State Children's Health Insurance Program for any fiscal year for certain Medicaid expenditures; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise with co-sponsors Senators LEAHY, LIEBERMAN, and CARDIN to introduce and ask your support for the Children's Health Equity and Technical Amendment Act.

Since the passage of the Children's Health Insurance Program, or SCHIP, in 1997, a group of States that expanded coverage to children in Medicaid prior to the enactment of SCHIP has been unfairly penalized for that expansion. States are not allowed to use the enhanced matching rate available to other States for children at similar levels of poverty under the act. As a result, a child in the States of New York, Florida, and Pennsylvania, because they were grandfathered in the original act or in Iowa, Montana, or a number of other States at 134 percent of poverty is eligible for an enhanced matching rate in SCHIP but that has not been the case for States such as New Mexico, Vermont, Washington, Rhode Island, Hawaii, and a number of others, including Connecticut, Tennessee, Minnesota, New Hampshire, Wisconsin, and Maryland.

As the health policy statement by the National Governors' Association reads, "The Governors believe that it is critical that innovative states not be penalized for having expanded coverage to children before the enactment of SCHIP, which provides enhanced funding to meet these goals. To this end, the Governors support providing additional funding flexibility to states that had already significantly expanded coverage of the majority of uninsured children in their states."

For 6 years, our group of States has sought to have this inequity addressed. Early in 2003, I introduced the Children's Health Equity Act of 2003 with

Senators Jeffords, MURRAY, LEAHY, and Ms. CANTWELL and we worked successfully to get a compromise worked out for inclusion in S. 312 by Senators ROCKEFELLER and Chafee. This compromise extended expiring SCHIP allotments only for fiscal years 1998 through 2001 in order to meet budgetary caps.

The compromise allowed States to be able to use up to 20 percent of our State's SCHIP allotments to pay for Medicaid eligible children at 150 percent of poverty that were part of our State's expansions prior to the enactment of SCHIP. That language was maintained in conference and included in H.R. 2854 that was signed by the President as Public Law 108-74. Unfortunately, a slight change was made in the conference language that excluded New Mexico and Hawaii, Maryland, and Rhode Island and needed specific changes so an additional bill was passed, H.R. 3288, and signed into law as Public Law 108-107, on November 17, 2003. This second bill included language from legislation that I introduced with Senator Domenici, S. 1547, to address the problem caused to New Mexico by the conference committee's change. Unfortunately, one major problem with the compromise was that it must be periodically reauthorized. Most recently, this authority was renewed through fiscal year 2007 in Section 201(b) of the National Institutes of Health Reform Act of 2006, Pub. L. No. 109-482. Without future authority, the inequity would continue with SCHIP allotments.

This legislation would address that problem and ensure that all future allotments give these 11 States the flexibility to use our SCHIP allotments to pay for health care services of children. In order to bring these requirements in-line with those of other States, it would also lower the threshold at which New Mexico and other effected States could utilize the funds from 150 percent of the Federal poverty level to 125 percent.

There is strong bipartisan support for addressing this inequity. Legislation was introduced in the 110th Congress in both H.R. 3584 by Republican Representative BARTON, and 141 co-sponsors, and S. 2086 by Senator Trent Lott and other Republican leadership to expand the category of children eligible through this correction to 133 percent of the Federal poverty level.

This rather technical issue has real and negative consequences in States such as New Mexico. In fact, due to the SCHIP inequity, New Mexico has been allocated \$266 million from SCHIP between fiscal years 1998 and 2002, and yet, has only been able to spend slightly over \$26 million as of the end of last fiscal year. In other words, New Mexico has been allowed to spend less than 10 percent of its Federal SCHIP allocations.

This legislation would correct this problem.

The bill does not take money from other States' SCHIP allotments. It

simply allows our States to spend our States' specific SCHIP allotments from the Federal Government on our uninsured children—just as other States across the country are doing.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 214

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Health Equity Technical Amendments Act of 2009".

#### SEC. 2. AUTHORITY FOR QUALIFYING STATES TO USE CHIP ALLOTMENT FOR ANY FISCAL YEAR FOR CERTAIN MEDICAID EXPENDITURES.

(a) ELIMINATION OF FISCAL YEAR AND PERCENTAGE LIMITATIONS.—

(1) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)), as amended by section 201(b)(1) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), is amended by striking "not more than 20 percent of any allotment under section 2104 for fiscal year 1998, 1999, 2000, 2001, 2004, 2005, 2006, 2007, 2008, or 2009" and inserting "a fiscal year allotment under section 2104".

(2) CONFORMING AMENDMENT.—Effective as if included in the enactment of section 201(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), paragraph (2) of that section is repealed.

(b) MODIFICATION OF ALLOWABLE EXPENDITURES.—Section 2105(g)(1)(B)(ii) of such Act (42 U.S.C. 1397ee(g)(1)(B)(ii)) is amended by striking "150" and inserting "125".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2008, and shall apply to expenditures made on or after that date.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 12—TO AMEND THE STANDING RULES OF THE SENATE TO PROHIBIT FILLING THE TREE

Mr. SPECTER (for himself, Mr. COBURN, and Mr. ALEXANDER) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 12

*Resolved*, That (a) rule XV of the Standing Rules of the Senate is amended by adding at the end the following:

"6. Notwithstanding action on a first degree amendment, it shall not be in order for a Senator to offer a second degree amendment to his or her own first degree amendment."

(b) The amendment made by subsection (a) shall take effect at the beginning of the 111th Congress.

Mr. SPECTER. Mr. President, I have sought recognition today in order to reintroduce a resolution I first put forward in the 110th Congress that would prohibit the use of the procedural tactic of filling the tree. I feel strongly that this practice contributed greatly

to inefficiencies and ineffectiveness that the United States Senate experienced in the 110th Congress. Commonly known as the "world's greatest deliberative body," the Senate has prided itself on free and fair debate on each and every issue that comes before it. Traditionally, members have had the right to offer virtually any amendment on any bill at any point in the legislative process. This all inclusive practice of legislating has earned the United States a unique place among modern democracies because of the open arena for ideas and sufficient debate.

However, in the past 15 years both sides of the aisle have increasingly seen the majority leaders use their authority to seek first recognition and fill the amendment tree. Republicans and Democrats alike have been equally as guilty of this practice for history has shown, when there is a problem with this institution, bipartisan blame is easily applicable. Beginning in 1993, "filling the tree" became increasingly prevalent as Senator George Mitchell used it 9 times in the 103rd Congress, Senator Trent Lott used it nine times in the 106th, and Senator Frist used it 9 times in the 109th. In the recently concluded 110th Congress, Majority Leader Senator REID filled the tree on 16 different occasions, bypassing the previous record amount by a significant margin.

Regular order in this chamber was sacrificed in this past Congress, and in its place was a procedural tactic that prevented passage of legislation that would have been extremely beneficial for this country. Bills such as FAA Reauthorization—H.R. 2881, Climate Change Legislation—S. 3036, and the Energy Speculation Bill—S. 3268 were all derailed by this practice. Cloture on each piece of legislation was not achieved and caused any further movement on them to be stymied. Blame was placed on Republicans for engaging in obstruction through the use of the filibuster to prevent movement to debate. The fact of the matter was our side was completely blocked from participating in the legislative process, forcing our hand to oppose moving to the bill.

My proposed resolution would disallow the majority leader or any other member from offering a first-degree amendment, followed by a second-degree amendment. It amends Rule 15, Standing Rules of the Senate and it is my hope the Senate can adopt this and operate under this rule in the 111th Congress and beyond. It is time for this chamber to conduct business in a logical, factual way; that is, for Senators to come to the floor and address the substance of the bill and offer amendments if they choose.

Congress currently has an approval rating at a level that is unacceptable. As we enter a new Congress, efforts must be made to allow regular procedure to return to the United States Senate. It is my hope that the grueling hours members and staff put into legis-

lation will be honored by giving it due consideration on the Senate floor. With a few changes in procedure, this Senate can ensure a more productive environment in the 111th Congress and beyond.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 15. Mr. REID proposed an amendment to the bill S. 22, to designate certain land components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes.

SA 16. Mr. REID proposed an amendment to amendment SA 15 proposed by Mr. REID to the bill S. 22, supra.

SA 17. Mr. REID proposed an amendment to the bill S. 22, supra.

SA 18. Mr. REID proposed an amendment to amendment SA 17 proposed by Mr. REID to the bill S. 22, supra.

SA 19. Mr. REID proposed an amendment to amendment SA 18 proposed by Mr. REID to the amendment SA 17 proposed by Mr. REID to the bill S. 22, supra.

SA 20. Mr. VITTER (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 22, supra; which was ordered to lie on the table.

SA 21. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 22, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 15. Mr. REID proposed an amendment to the bill S. 22, to designate certain land components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes; as follows:

At the end, insert the following:

The provisions of this bill shall become effective 5 days after enactment.

SA 16. Mr. REID proposed an amendment to amendment SA 15 proposed by Mr. REID to the bill S. 22, to designate certain land components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes; as follows:

In the amendment, strike "5" and insert "4".

SA 17. Mr. REID proposed an amendment to the bill S. 22, to designate certain land components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes; as follows:

At the end, insert the following:

This bill shall become effective 3 days after enactment of the bill.

SA 18. Mr. REID proposed an amendment to amendment SA 17 proposed by Mr. REID to the bill S. 22 to designate certain land components of the National Wilderness Preservation Sys-

tem, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes; as follows:

In the amendment, strike "3" and insert "2."

SA 19. Mr. REID proposed an amendment to amendment SA 18 proposed by Mr. REID to the amendment SA 17 proposed by Mr. REID to the bill S. 22, to designate certain land components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes; as follows:

In the amendment, strike "2" and insert "1".

SA 20. Mr. VITTER (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 22, to designate certain land components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . DESIGNATION OF NATIONAL MONUMENTS.

Section 2 of the Act of June 8, 1906 (16 U.S.C. 431) is amended by striking "That the" and inserting the following: "After obtaining congressional approval of the proposed national monument and certifying compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the proposed national monument, the".

SA 21. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 22, to designate certain land components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . EFFECTIVE DATE.

This Act shall not go into effect until—

- (1) the President certifies that the Act would not increase the Federal deficit; and
- (2) the Secretary of Commerce and the Secretary of Energy certify that the Act would not limit access to energy resources.

#### ORDERS FOR TUESDAY, JANUARY 13, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m. on Tuesday, January 13; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour deemed expired, and the time for the two leaders be reserved for their use later in the day; that there then be a