also allows an employer to put money in a health savings account for you that you can use to pay for your health care or to pay the premium to support you to buy additional coverage with your health insurance. We have a provision that deals with lawsuit abuse, and we have a provision that funds high-risk pools for States so people who have high-risk conditions, uninsurable conditions, preexisting conditions, can buy insurance they can afford at the State level.

The estimates are by the Heritage Foundation that within 5 years, more than 20 million of these uninsured—most of them—will have private insurance plans, because they can't use their health care certificate unless they use it to buy health insurance.

I would ask my colleagues this: If we had the option to get everyone in an individual or employer plan or expand these government plans, which aren't paying their way, which are transferring costs to other people, and which are hopelessly in debt, which way do we go? But we can fund my plan without one additional dollar of taxpayer money. The estimates are over the next 10 years, getting these people insured with private policies, giving them a $5,000 a year health care certificate, will cost about $700 billion. If that number sounds familiar, that is about how much money we have outstanding with the bailout money we call TARP here in this Congress. Instead of them bringing this money back and spending it on something else, my proposal pays for my plan by recapturing this TARP money. So as this bailout money comes back over the next 5 years, it can pay to give every American access to a plan they can afford and own and keep. It is basically no additional cost to the taxpayer at this point over what we are already committed for, for the bailout.

The choice belongs to Americans. Are we going to buy this idea that a government option is going to give us more choice, more quality, more personal attention? Will it attract more physicians into the profession? Any thinking American knows that isn't going to happen. The ideal plans now are those when individuals have a plan they own and can keep, they pick their own doctor, and the doctor and the patient decide what health care they are going to get. This is within our reach. We don't need a massive government takeover of health care in order to make health care accessible to every American. Let's not buy this idea that we are in such a crisis that we have to rush over the next couple of months to create another government program, another government takeover, when we see what happens to government-run health plans right in front of our eyes. It won't work. We can't afford it. They are going to end up rationing care. They are going to take employer plans, irrespective of what they say—if you have a low-cost government option that doesn't pay doctors enough to see you, you are going to see insurers dropping their health plans and you are going to end up in the lap of government whether you like it or not.

Let's not give up on freedom. Let's look at the facts. Have we seen any government program, over your lifetime or mine, that has actually done what it said it was going to do at the cost it said it would be done at? My colleagues know that is not true.

Social Security is so important to seniors, and a promise we must keep. It is hopelessly in debt, because this government has spent every dime Americans have put in it, and there is not a dime in the Social Security account to pay future benefits. The same with Medicare—trillions of dollars. This is a commonsense solution that every American can see, if we don't listen to the misrepresentations we are starting to hear in this body. Every American with a policy they can afford and own and keep is available to us, within our reach, without any government takeover of health care. We just have to believe that what made America great can make health care work, and that is freedom.

Mr. President, I yield the floor and note the absence of a quorum.

Mr. CORNYN. Mr. President, would the Senator withhold the quorum call?

Mr. DEMINT. I withhold.

The PRESIDING OFFICER. The Senator from Texas.

KOH NOMINATION

Mr. CORNYN. Mr. President, I rise to speak on the nomination of Harold Koh whom the President has nominated to be legal advisor to the State Department. This is a relatively obscure but very important position at the State Department. The legal advisor operates frequently behind the scenes but on such important issues as international relations, national security, and in other areas.

One area that is very important is that the legal advisor is often the last word at the State Department on questions regarding treaty interpretation; that is, international agreements between countries. The legal advisor often gives legal advice to the Secretary of State and the President of the United States during important negotiations with other nations. We also know from experience that the legal advisor can be a very important voice in diplomatic circles, especially if he or she views America's obligations to other nations and multilateral organizations in a particular way, particularly if they have strong views.

Professor Koh has an impressive academic resume and professional background. He is an accomplished lawyer and a scholar in the field of international law. Nevertheless, I do not believe that Professor Koh is the right person for this job. I believe that many of his writings, his speeches, and other statements are in tension with some very core democratic values in this country. I believe that his legal advice on transnational law, if taken to heart, could undermine America's sovereignty or security and our national interests.

I urge my colleagues not to take my word for this but look for themselves at Professor Koh's record and consider whether he is the right person to be advising Secretary Clinton and other diplomats at the State Department on legal issues pertaining to our relationship with other nations and such key issues.

I mention this notion of transnational jurisprudence, which is a little arcane, but I will explain what it is all about. Professor Koh has been an advocate for transnational jurisprudence, which is the idea that Federal judges should look at cases and controversies as opportunities to change U.S. law and to make it look more like international or other foreign law.

I am not saying that all foreign law is bad, but our Founders acknowledged that when we take the oath of office here, we pledge to uphold and defend the Constitution of the United States of America, not some unsigned, unratified international treaty or an expansive notion of international common law which Professor Koh embraces and advocates.

We know Americans don't have a monopoly on virtue and wisdom and certainly we can benefit from exchanging ideas with other democratic countries. But Professor Koh's notion that it is appropriate and proper for a Federal judge to look at foreign law in deciding what the Constitution of the United States means, and what the laws of the United States require, to me, is at complete tension with this idea that we will uphold American values and the American Constitution and American laws passed by our elected officials. We do not appropriately ask Federal judges to look at unratified treaties, some notion of international common law and, certainly, the laws of other countries in interpreting our laws in the United States.

Professor Koh seems to have a different view. He said Federal judges should use their power to ''vertically enforce'' or ''domesticate'' American law with international norms and foreign law.

He has argued that Federal judges should help ''build the bridge between the international and domestic law through a number of interpretive techniques.''

Where will these ''interpretive techniques'' lead us? Evan Thomas and Stuart Taylor asked that question in Newsweek magazine earlier this year. They answered based on their investigation:

> Were Koh's writings to become policy, judges might have the power to use debatable interpretations of treaties and ''customary international law'' to override a wide array of federal and state laws affecting matters as disparate as the redistribution of wealth and prostitution.

Transnational jurisprudence is not the only controversial view professor Koh holds.

Again, as a law professor and dean of Yale Law School, I understand law professors advocating cutting edge and, indeed, provocative legal interpretations. But to say this is appropriate not in the classroom as a teaching exercise but, rather, important for Federal judges to do in the exercise of their article III powers is an entirely different notion altogether.

In 2002, Professor Koh gave a lecture titled ''A World Drowning in Guns,'' in which he argued for a ''global gun control regime.''

In 2007, he argued that foreign prisoners of war held by the U.S. Armed Forces anywhere in the world—not just enemy combatants held at Guantanamo Bay—are entitled to the same rights as American citizens under habeas corpus law as applied by our Federal courts.

Perhaps most timely, Professor Koh appears to draw a moral equivalence between the Iran regime's political suppression and human rights abuses, on the one hand, and America's counterterrorism policies on the other hand.

Professor Koh has written:

[U.S.] criticism of Iranian ''security forces [who] monitor the social activities of citizens, entered homes and offices, monitored telephone conversations, and opened mail without court authorization'' is hard to square with our own National Security Agency's sustained program of secret, unreviewed, warrantless electronic surveillance of American citizens and residents.

Furthermore, the United States cannot stand on strong footing attacking Iran for ''illegal detentions'' when similar charges can be and have been lodged against our own government.

The U.S. policies that Professor Koh is criticizing were authorized by the Congress in a bipartisan fashion, and each of us is accountable to our constituents for the decisions we make.

It is offensive to compare the policies of the U.S. Government with those of a theocratic dictatorship that responds to criticism with brutal violence against its own people.

We have heard enough moral equivalence regarding Iran over the last week and a half. We have heard enough apologies for the actions of the United States—and enough soft-peddling of the brutal suppression by the Iranian regime of their own people. We don't need another voice in the administration whose first instinct is to blame America—and whose long-term objective is to transform this country into something it is not.

For these reasons, I urge my colleagues to vote no on the cloture motion on this nomination.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, before I begin, are we in morning business or on the Koh nomination?

The PRESIDING OFFICER. We are in morning business.

SOTOMAYOR NOMINATION

Mr. LEAHY. Mr. President, I thank Senator MENENDEZ and Senator SCHUMER for their outstanding statements to the Senate today. As I review Judge Sotomayor's record in preparation for her confirmation hearing on July 13, I am struck by her extraordinary career and how she has excelled at everything she has done. I know how proud her mother Celina is of her accomplishments. I was delighted to hear Laura Bush, the former First Lady, say recently that she, too, is ''proud'' that President Obama nominated a woman to serve on our Supreme Court. I recall that Justice Ginsburg said she was ''cheered'' by the announcement and that she is glad that she will no longer be ''the lone woman on the Court.'' I contrast this reaction to President Bush's naming of Justice O'Connor's successor a few years ago when Justice O'Connor conceded her disappointment ''to see the percentage of women on [the Supreme Court] drop by 50 percent.'' Are these women biased, or prejudiced, or being discriminatory? Of course not. I hope that all Americans are encouraged by the nomination of Judge Sotomayor and join together to celebrate what it says about America being a land of opportunity for all.

A member of just the third class at Princeton in which women were included, Judge Sotomayor worked hard and graduated summa cum laude, Phi Beta Kappa, and shared the M. Taylor Senior Pyne Prize for scholastic excellence and service to the university. Think about that. She was a young woman who worked hard, including during the summers, to make up for lessons she had not received growing up in a South Bronx tenement. That is why she read children's books and classics, and arranged for tutoring to improve her writing. She went on to excel at Yale Law School, where she was an active member of the law school community, served as an editor of the prestigious Yale Law Journal, and as the managing editor of the Yale Studies in World Public Order working on two journals during her 3 years of law school. She was also a semifinalist in the Barrister's Union mock trial competition at the law school. Now, some Republican Senators have made fun of her achievements and some seek to belittle them. They question how she could be an editor without providing a major article that she edited. I know from my experience that members of student journals do not all edit major articles. It is an achievement to be affiliated with the Yale Law Journal in any capacity. They act as if she made this up. If this really is a major concern, and they wish to ask her about it at her confirmation hearing, they can. I have never known Sonia Sotomayor to be one who padded her resume. Frankly, she does not need to. Her achievements are extraordinary and impressive.

She is the first nominee to the Supreme Court in 100 years to have been nominated to three Federal judicial positions by three different Presidents. Indeed, it was President George H.W. Bush, a Republican, who nominated and then appointed her with the consent of the Senate to be a Federal district court judge. She has the most Federal court experience after 17 years of any nominee to the Supreme Court in 100 years. She is the first nominee in more than 50 years to have served as a Federal trial judge and a Federal appellate judge at the time of her nomination to the Supreme Court. She will be the only member of the Supreme Court to have served as a trial judge. She will be one of only two members of the Supreme Court to have served as a prosecutor.

I remember well when she was nominated to the United States Court of Appeals for the Second Circuit by President Clinton, and when an anonymous Republican hold stalled her appointment for months. Finally, in June 1998, a column in The Wall Street Journal confirmed that the Republican obstruction was because they feared that President Clinton would nominate her to fill a Supreme Court vacancy, if one were to arise. After that Supreme Court term ended without a vacancy, we were finally able to vote on her nomination and she was confirmed overwhelmingly. Not one word was spoken on the Senate floor and not one word was inserted into the CONGRESSIONAL RECORD by those who had opposed her to explain their opposition or to justify or excuse the shabby treatment her nomination had received.

It is apparent that some Republicans are responding to the demands of conservative pressure groups to oppose her confirmation by doing just that. The truth is that they were prepared to oppose any nomination that President Obama made. Just today, a number of Republican Senators have come to the Senate floor to speak against President Obama's nomination of Judge Sonia Sotomayor to the Supreme Court. The Senate Republican leader, the ranking Republican on the Judiciary Committee, and the head of the National Republican Senatorial Committee have all taken a turn.

My initial reaction to their effort is to note that they have doubly demonstrated why a hearing should not be delayed. In fairness, no one should seek to delay her opportunity to respond to their questions and concerns and to answer their charges. As I said when I set the hearing date after consulting with Senator SESSIONS, I wanted it to be fair and adequate—fair to the nominee and adequate to allow Senators to prepare. To be fair to her, we need to give her the earliest possible opportunity to answer. As for preparedness, those Republican critics were prepared to air their grievances and concerns and to discuss her record and her cases 3 weeks before