

or for social services working with Government to get to 100 percent of the people who are eligible. So what this does is say no more children would enroll.

We know health insurance is becoming less and less affordable for families at every income level. I know what has happened in my State. As the Senate majority leader told us earlier today—an hour ago—85,000 people in this country lost their jobs today. Eighty-five thousand people lost their jobs today. In my State, we have lost 200,000 manufacturing jobs in the last 8 years. It was 200,000 as of last October. That number has gone up. We hear about plant layoffs such as the third shift at Lordstown in northeast Ohio, a General Motors plant that assembles goods. As the Presiding Officer knows from what has happened to his plant in Delaware, we know what happens when people are laid off from these jobs. They cut off the third shift at Lordstown. We are seeing Wilmington, DHL in southwest Ohio, 7,000 jobs over a several week period have been terminated in a city of about 13,000 people. That DHL plant is the largest employer in a six-county area, in each of these six counties—in Clinton County, Brown County, Adams County, Highland County, and two other counties.

The point is we don't want with this economic downturn—we don't want to turn back the clock. It is the worst possible time to cut back on States' tools for helping low-income children. We want these children to become insured, not to find ways to deny coverage. The Hatch amendment does that. That is why it is so important later today, if and when we vote on this amendment.

Another point. There are about 150,000 children in my State. My State has a population of around 11 million. There are about 154,000 of our children in my State—enough to fill Ohio State Stadium. The Presiding Officer, even though he is from Delaware, is an Ohio State graduate. He knows how big that stadium is. It holds more or less 100,000 people in one place—Columbus—in the heart of the State. There are 150,000 children who don't have insurance, enough to fill that stadium one and a half times. That number grows. That was sort of yesterday's number. That number grows every day. Ohio has already lost 100,000 jobs in this recession. If the pace of job loss accelerates this year as expected, more and more children will suddenly become uninsured. President Obama has already said the 2009 economy is going to be even worse than the 2008 economy. That is why Senator INOUYE and so many others in this body, Senator MIKULSKI and others on the Appropriations Committee, are working so hard to put a stimulus package together that will have an impact as quickly as possible as we work our way through the second year of this recession.

In these tough economic times, the risk of being uninsured is even greater.

Many Ohio families, as we know too well, are only one emergency room visit away from bankruptcy and foreclosure. Too many have declared bankruptcy, too many people have lost their homes to foreclosure, too many people have lost their jobs to this recession. We should not turn our back on them in providing health insurance to their children. Again, these are mostly people who are eligible for the Children's Health Insurance Program, mostly children in families where mom or dad or mom and dad have jobs and simply are not making enough to buy health insurance and those employers for whom they work simply don't have the ability to provide insurance to these families. That is why this legislation is so important. That is why defeating the Hatch amendment is so important.

I would add that in the Hatch amendment, the 95-percent rule is especially for those who want to enroll legal immigrant children and pregnant women. Again, that is a standard I don't think we can meet, because no matter how hard these States try, they can't find 95 percent of the people who are eligible. That will mean too many children of legal immigrants, legal people in this country, too many pregnant women simply would not have insurance for their children that we should offer them in this body.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator is recognized.

Mr. KYL. Mr. President, the legislation that is before us is a reauthorization of the Children's Health Insurance Program, but it is, as I said yesterday in my remarks, seriously flawed in a number of respects. Because of that, the minority leader, the Senator from Kentucky, and I have offered an alternative. It is called the Kids First Act. The Kids First Act is an effort to reauthorize this important program but address the numerous flaws in the pending proposal so we can adopt something that literally puts kids first.

I spoke yesterday about several of the problems with the underlying bill. First, the problem of crowding out private coverage. We created this Children's Health Insurance Program in order to help families who did not have insurance. But the bipartisan Congressional Budget Office has noted that because of provisions in the underlying bill, there are actually over 2 million people—in fact, 2.4 million people—who will go to the Government insurance program who already have private health insurance that is perfectly adequate to their needs. The reason primarily is because their employers obviously appreciate the fact that it is

costing them money to insure their employees' families and it will be a lot cheaper if those families go to this Government-run program. Our effort was never to cause people to leave the health insurance coverage they have to come to a new Government program. Our effort, when we adopted the kids insurance program, was to provide insurance for those who did not have it already.

This crowdout effect is well known, and it is well understood. It can actually be quantified as the Congressional Budget Office did. Last year, we offered a couple of amendments to ensure that the crowdout effect would be minimized. The amendment I offered was not adopted. But recognizing that there was a serious problem, when the Democratic leaders in the House and the Senate wrote the bill that ended up passing both the House and the Senate, though it was vetoed, it was supported by Democratic majorities in both the House and Senate, and it had some language related to crowdout. I thought it was insufficient language, but nevertheless I understood the necessity of dealing with the issue.

That language is not in this bill. So in the committee, I offered the Democratic language. The Senator from Montana, the chairman of the committee, helped draft it. As I said, it was supported by Democratic majorities in both the House and Senate. Essentially on a party-line vote, that amendment was rejected.

We need to deal with the problem of crowdout. The legislation Senator McCONNELL and I have drafted does put kids first. It tries to deal with the problem of kids who do not have insurance rather than taking families who are already insured and transferring them to a Government program.

Another problem we spoke of is the fact that as this program has expanded, it does not just relate to families who are at the poverty level or even twice the poverty level but three and four times the poverty level. In other words, it can actually cover families in two States—up to \$88,000 a year in New York and about \$10,000 less than that in New Jersey. That is clearly wrong. We are trying to talk about low-income families. In fact, if you add other assets of a family that are not counted in income, you could literally have \$40,000 in additional assets and, in New York, be making \$128,000 a year for a family and be eligible for this low-income children's health care—\$128,000-a-year income. That is wrong. What that does is take money from the State of the Senator from Oklahoma, it takes money from my State of Arizona and other States and transfers that. We are trying to be as frugal as we can. Our limit is 200 percent of poverty. That is twice the poverty level. That is what we pay for in Arizona. But we are having to pay for more than twice that much for families in New York. That is not fair. The program Senator McCONNELL and I have offered as an alternative deals with that problem as well.

In addition, we ask that people demonstrate that they are eligible for this coverage. That has always been a part of the program. The bill that is before us weakens those provisions so that you do not have to have the same kind of documentation that you are eligible for the program. It expands the program to legal immigrants in this country who have always had a contract that they will not become part of our public welfare system.

One of the really interesting things is the budget gimmick that is used which Senator McCANNELL and I believe should not be part of this program. It is a budget gimmick to circumvent the Senate's so-called pay-go rules by which we ensure whatever the costs are, there is a way to cover those costs. The way that is done is that the program, even though it is a 10-year program, as all of our authorizations are—after 5 years, there is just an assumption that it does not cost very much anymore. Of course, under that assumption, we would have to disenroll millions of people from this program. That is never going to happen. Everybody knows that. Everybody knows that gap in financing would be filled, and as a result, the program would actually cost \$40 billion more than it is alleged to cost as the bill came out of the committee. And that is by CBO's number, \$41 billion-plus.

Those are some of the deficiencies with the legislation.

The amendment Senator McCANNELL has offered, the Kids First Act, is very targeted and I think a much more responsible approach to the problem. It does reauthorize the children's health care insurance program. It preserves health care coverage for millions of low-income children. It actually adds 3.1 million new children to SCHIP. It minimizes the reduction in private coverage, the so-called crowdout I spoke about earlier, by targeting SCHIP funds to low-income children, not higher income families who may already have access to insurance. By the way, it is offset without new tax increases or a budget gimmick such as the program before us is.

I encourage my colleagues to ask us questions about this amendment. If they have concerns about it or would like to debate, I would love to have that debate on the floor, if anyone would like to engage me in a discussion about why this is not a superior alternative.

The bottom line is, we have two choices. We have a budget buster that does not protect SCHIP coverage for low-income children, that represents an open-ended financial burden on taxpayers and takes a significant step toward Government-run health insurance or the amendment Senator McCANNELL has filed, a fiscally responsible SCHIP reauthorization that preserves coverage for low-income children. It is fully offset without a budget gimmick or a tax increase, and it minimizes the so-called crowdout effect on employer-

sponsored health coverage that people have today.

I think the answer is clear. The Kids First Act is the right solution. And when we have an opportunity to vote on that, hopefully a little bit later this afternoon, my colleagues will take a good hard look at it and see if they don't agree that is a good approach to the reauthorization of SCHIP and support the McConnell amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I appreciate the comments of my friend and colleague from Arizona. The minority leader filed this amendment in 2007. It was not a good idea then. It simply knocks too many children. These are not rich kids. These are sons and daughters of people who are working who are not making a lot of money, are not making enough that they have health insurance or can afford out-of-pocket health insurance. They are working for employers who do not provide it—small businesses, lower income workers. I don't want to do anything that takes away the eligibility of those children.

When I hear about the crowdout provision Senator KYL discussed, I want to make a couple of comments about that. I just don't think it exactly is going to work that way.

The CHIP statute already requires States to determine and monitor whether crowdout is occurring and adopt policies to limit crowdout if it does occur. Most States that cover children at more moderate income levels have imposed 3- or 6-month waiting periods to prevent families from dropping employer-based coverage to enroll in CHIP. There may be a time when families are not going to want to do that.

It is not as though States want to give away this money. States are squeezed today every bit as much as many families are squeezed. States already have a strong interest in monitoring and preventing crowdout. They don't want to spend limited resources on children who already have private health insurance.

This bill does a good job of targeting the lowest income children. The new enrollment options, the performance bonus, and the outreach funding all help to achieve everyone's shared goals to ensure that the most vulnerable are covered.

We accept that our friends on the other side of the aisle want to insure people at 100 percent, 150 percent of poverty, but we also want to extend this to families who still do not have insurance for their children because of their economic situation. These are not Congressmen's kids. These are children whose parents are working at places that do not offer insurance and do not make enough money that they can out of pocket come up with health care coverage for their children.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I wonder if anybody has ever asked the question—it has certainly never been answered—if you are a family and you qualify at the new 300 percent and you are buying your own insurance and you are covering your two kids, what happens when you transfer your kids to SCHIP, the Children's Health Insurance Program? What happens to your premium? I can tell you what happens to the premium. Do you know what happens to the premium? It goes down zero because health insurance is sold as an individual or a family product. So by taking two children, if I am earning 300 percent of poverty, and taking them off and transferring—now I am paying for it—and transferring that to the State Children's Health Insurance Program, the taxpayers of this country now will pay for that premium about \$2,200 a piece when you can buy it in the private market for \$1,100 a piece, but the parents will get no decrease in their insurance premium. That is why the crowdout provision is so negative for the American taxpayer and the generations that follow us.

My friend, the Senator from Ohio, mentioned that everybody wants to cover the 200 percent and below. The fact is, we have done a terrible job of covering the 200 percent and below. There are 5.4 million children out there today who do not have health insurance, whose parents do not have health insurance, who are eligible for Medicaid and SCHIP today, and they are not signed up. What are we doing? We are expanding a program that has only gotten about 51 percent of the kids who are eligible right now signed into the program. We are also being dishonest about what it costs. It is actually going to cost \$42 billion more than what we say it is going to cost. Nobody will deny that. So why would we not want to have something that will limit the amount of crowdout because as we take money for kids who are now insured and put it to them through a Government program, it means these same 5.4 million kids are still not going to get covered.

We have not improved the program by increasing the eligibility. What we have done is we have just moved the income scale up to \$60,000, some \$62,450 a year, and we say: We will now cover your kids, and even if you have them covered now, you will not get any break from your insurance. But the same 5.4 million kids who are in poverty or at 200 percent of poverty still are not covered.

What are we doing? Why wouldn't we want to fix it to where all the kids who are out there today who do not have insurance, who are 200 percent and below the poverty level, why aren't we making sure they are covered? Why are we not doing that? Why are we not saying: States, you can go to the 300 percent if you want but only after you have covered the kids whom the program was designed for in the first place.

There is an amendment by Senator HATCH in that regard. Why would we spend all this extra money?

By the way, we just met with the President. Other than the short-term financial struggles we are in, one of the big concerns with him is the fact that we have an unending entitlement disaster before us and we are getting ready to make it worse. Why would we not address that? Why would we say we are going to help kids but not really help kids? Why would we say we want to help the poorest children and the families who need it the most but still ignore them?

There is an answer to it. There is an answer to it, in that we want to move whichever way we can to eventually have a single-payer system in this country. We gutted the Premium Assistance Program. The Senator from Pennsylvania listed all the great things about the Premium Assistance Program. He listed all the different programs in Pennsylvania. Those are gutted under this bill. You can have one, but by the time you get it, nobody will want to have it.

We have taken what people have and said maybe we could spend \$500 per kid per year to keep them in a health insurance program that the parents might have at work, but instead we are taking them all out and putting them in a Government program that costs twice as much as it does to buy them the same insurance in the open market.

Crowdout is a real phenomenon, but the most important thing is it helps the people who need it the least the most. And it helps the least those people who need it the most. That is what we are doing in this bill. We are not helping the lowest. We are only moving it up the chain and we are saying if you make \$62,000 a year in this country, your children can be covered by the Government.

Why would you not want to do that? We do not have any other Government program that people do not voluntarily take if we put it out there. That is in the face of the fact that this year—hear my words very clearly—this year the true Federal budget deficit will be \$1.6 trillion. The Government will spend \$24,000 per family more than it takes in. Hear those words—\$24,000 more per family it will spend than it takes in.

What is the future to be for this child at the 300 percent above poverty level? Their parents make \$62,000 and we are going to give them this gift of health insurance today. But you will not be able to afford a college education. You certainly will never afford a home. It is doubtful you will ever be able to afford a car that is reliable. You will be in a debtor nation. Those are the consequences of our actions in the name of wanting to expand a program that today is highly ineffective in addressing the needs of the real poor children in this country.

Why would we do that, and just say: Don't worry, you have a pricetag to

pay if you ever hope to get out of college or have the ability to get out of college? By the way, we are going to up your taxes if you get out there and get it up here on the front end.

This body is abandoning the very principles this country was built on. This country was built on a heritage of sacrifice, sacrifice by the common man for the common good to create a great, bright shining future for the generations that follow. This bill doesn't fit with that heritage. This bill, as a matter of fact, undermines that heritage. In the name of helping children, we are hurting those children's children. We are stealing opportunity from those children's children.

As I said earlier this morning, I want every child in this country insured. If we took the money that was out there today in Medicaid and SCHIP and the State contribution to it, we could insure every child in this country. We could create an insurance policy for every child in this country that gives them total screening exams, could give them prevention care, could give them acute care, and could give them hospital care. Yet when we run it through the Government, it costs twice as much because of the inefficiencies that are inherent in the system.

Later on I am going to offer a limitation based on improper payments. The American public may not know this. Certainly Members of Congress know. We do not know how much money is wasted in Medicaid because Medicaid has refused to report it. By law they are mandated to report it. They have refused to report it. We now have the information on 17 States on improper payments. The average is 10.5 percent on the 17 States we have looked at. Of that, 90 percent of those are overpayments. In New York City alone their own inspector general said at a minimum \$15 billion a year is wasted in fraud, abuse, and deceit on the Medicaid Program. Where have we addressed any of that in this? Where have we put the safeguards to make sure this doesn't happen here? We have not done that.

We are not fixing the problems that are in front of us. What we are doing is creating more problems in the name of expanding a children's insurance program and limiting the future of the things that have been very successful with it, such as premium assistance, and taking that away.

There is going to be crowdout and the crowdout is going to benefit the most wealthy of the upper middle income because in some States, by the time you count exclusions, you can earn \$120,000 a year and have your kids on SCHIP. We are going to help them. But not the kids of the parents working at \$7 an hour, both of them, making \$28,000 or \$30,000 a year, of which half of them are not on either Medicaid or SCHIP. Why would we do that? Do we truly care about children's health? Are we really about trying to solve it?

Where are the ideas of combining where the biggest health care dispari-

ties are in our country? We know where those are. Why not design a program to go and attach and direct health care dollars to the large health care disparities? We know it pays big returns in terms of childhood obesity, in terms of precluding the onset of smoking, in terms of prevention and vaccinations, in terms of well-child care? Why would we not look at where the problems are and try to direct dollars to where the problems are? Instead, we are going to allocate across this country, to those who can now afford it, we are now going to start paying for it.

Even if we wanted to do that, why would we do it at twice the cost of what you could buy in a private market? Mr. President, \$1,156 is the average market cost to insure a child in this country. Why would we spend \$2,200 to get the same thing? So we can say we did something?

If, in fact, you could take \$1,156 or \$1,200 for every child out there—we have more than enough money with what we are spending today to accomplish that—we could buy them all an insurance policy.

I am not sure this bill is about children. I am not sure it is about children's health care. I have some doubts when we are not frugal. If it is about children's health care now, it is certainly not about those children's long-term financial security, when we are not even going to be honest with how much this bill costs. We have pulled a trick so we do not have a pay-go rule, and the trick keeps us from offsetting \$42 billion in expenses associated with this bill. Everybody knows that. Nobody will say that is not right. Nobody wants to talk about that. That is what is wrong.

That is why people do not have confidence in the Congress. It is because we have this sleight-of-hand. We want to do something good but we don't want to tell you what it costs and we don't want to get rid of programs that don't work in order to be able to do something good. We are going to hide it under the blanket. So we are hiding \$42 billion under the blanket. We are playing the inside baseball game, not being honest with the American people about what it costs; not being honest with the American people that it is a lot cheaper to give premium assistance than it is to give a program directly to a child; not being honest about the fact that this costs twice as much as what you could buy a health insurance policy for, for every child in this country.

We are not being honest at all, so our integrity is in question. Would we do the right thing in the long term for these kids that we say we care about their health care? I do not have the confidence we will. I have the confidence that this train is going to roll, we are going to do it just the way we have done it. There are still going to be 5.4 million kids out there 10 years from now, when we look at eligibility. It will be the same 5.4 million under the 200

percent of poverty level that we did not reach, that we didn't get out and actually make a difference. And then we are going to pay a larger cost as they mature as adults because what we could have prevented will not have been prevented, what we could have taught will not be taught, and the health care costs associated with that will be tremendous.

Mr. President, 5.4 million children are presently eligible for either SCHIP or Medicaid and we have done nothing to make sure those kids get a program that is readily available to them today. We have done nothing. We put \$100 million in for outreach and said we will feel good about it because maybe that will reach some of them. We will still have millions of children who are eligible for these programs who will not get it.

We are going about approaching it the wrong way. We ought to be saying let's have a bill that insures every American child. Let's do that. Every American child, universal access with an insurance policy for every American child, why won't we do that? That is what we should be doing. Let's do it for every child. Then the insurance rates on adults will modulate and then husband and wife will not be paying a falsely elevated price once their kids get pulled off of their insurance policy and go into a Government program. Why not buy them all something, from then until the time they are 21, that covers them, that gives them the prevention care, that gives them the counseling, that gives them the immunizations? We know what it costs and we know what we can do it for. Why not do that?

Instead, we have created this complex, convoluted system that can be gamed. The estimate on Medicaid fraud—listen to this—the estimate on Medicaid fraud is \$60 billion a year. That is enough to pay for where we cheated on this program if we would get rid of 10 percent of it a year over the next 10 years, if we got rid of 10 percent of the fraud. There is nothing in here on fraud. There is nothing in here to make the States accountable for the money we send out there.

We have done a poor job. We claim we want to help children, we claim we want children to have health insurance, yet we mortgage those very children's futures by not being honest about how we are going about doing it, about how we are going to pay for it and what the ultimate results will be.

I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I appreciate as always, even when we disagree, the words of the Senator from Oklahoma. He and I have worked, from our time in the House, on international health legislation together. We come at things from very different perspectives. But I often come down in the same place. I would love to hear more

about his plan on children's health, to extend universal coverage to all children.

I was driving to the airport this morning after leaving my mother in Mansfield, and heard Bill Considine, who is the president of Akron Children's Hospital, one of the premier children's hospitals in my State and in our country. Mr. Considine, the CEO of that hospital, had some interesting things to say about what I believe he called Kids Care, which may be similar to what Senator COBURN was talking about.

I hope we can work some things through there. I want to disagree, though, for a moment briefly with Senator COBURN's comments about we absolutely want to—we do not want 50 percent of children covered who are at 200 percent of poverty or 300 percent or beyond for that matter.

We obviously want to do better. We have done generally fairly well locating those children and signing them up, those children who are eligible.

This legislation goes a good bit further, and the efforts to, if you will, encourage and find those children who are eligible and sign them up, those efforts have been very bipartisan in the last dozen years.

The Presiding Officer from Vermont has been part of this. He has always had an abiding, intense interest with what we do with children's health care. I extend this back a couple of sessions ago—Senator FRIST, the Republican leader, and Senator BINGAMAN, a Democrat from New Mexico; and Senator LUGAR, a Republican from Indiana, with Senator BINGAMAN; and at other times Senator GRASSLEY, a Republican from Iowa, Senator HATCH a Republican from Utah—all of them have been part of, and many on my side of the aisle have been part of, finding ways to get people to sign up, simplification of paperwork and bureaucratic requirements, including language directly from legislation introduced by Senators LUGAR and BINGAMAN; providing funding for outreach and enrollment, which is language originally introduced by Senators FRIST and BINGAMAN and pushed and supported by Senators GRASSLEY and HATCH in the legislation in the last Congress.

It provides for incentives for States to encourage and to provide coverage for those eligible but unenrolled children. We can certainly learn from Senator COBURN to do more, but this legislation is replete with provisions to bring in more children. It does not mean we do not enlarge the eligibility to 300 percent of poverty, nor does it mean we do not look down the road, I hope, sooner than later with the relationship that Senator COBURN has built with President Obama, both as freshmen Members of the Senate and since Senator Obama has become President, to work together in finding ways to do this.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I thank my colleague for his comments. There is an easy way to solve this; it is called auto enrollment. You just write a bill. Anybody in any region under 200 percent who has a claim of deduction for children is automatically enrolled in SCHIP or Medicaid. It is not hard. We do not want to do that. Why are we not doing that? Because we do not want to help all of these 5.4 million children. We do not want to do that.

We have all of these incentives that have not worked in the past. We have done all of these things. All you have to do is auto enrollment. We can write a law. We can pass it. We can say: The IRS can look at every family who has children under 200 percent who files a tax return or files for the earned income tax credit, and their children are automatically enrolled. They automatically get a notice that says: Here is your insurance. Here is your State card. You have coverage.

It is not hard. We can do that. But we have not done it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, I wanted to pick up where I was before lunch. I am glad to see my good friend from Ohio. We were having conversations before lunch on this bill. Clearly, it is an important piece of legislation.

As Dr. COBURN and I said before lunch, I think every Member of the Senate, I think every Member of Congress, and probably everybody in the country believes it is important that we cover children; that the prevention and wellness aspects of having coverage means we have a healthier community; that we take those who, by the way, are historically more healthy, younger folks, and we give them the assurances of check-ups and the ability to visit a doctor so that we minimize anything that can happen to them. In 1996 and 1997, the Senator from Ohio and I were both on the Energy and Commerce Committee. We were involved in crafting the original legislation. I remember it today as well as I do then. The legislation was targeted at a specific group of our country's children: those over 100 percent of poverty whose families made too much for Medicaid but those with not enough income between their parents to be able to afford health care at the time.

My gracious, health care has done nothing but get more expensive since 1997. We appropriated and authorized \$40 million for a 4-year program. The target—I can't remember what the target was for the number of kids—but today, at 100 percent of poverty for a family of four, they would have an income of \$22,000. At \$22,000 they apply for Medicaid, regardless of what State they live in, and health care is provided under Medicaid for that family.

As Dr. COBURN pointed out, I think rather clearly, for Medicaid and SCHIP today, we have probably eliminated access to about 40 percent of health professionals because they choose not to

participate in the programs. Why? It is because the reimbursements are so pitiful in those two programs, regardless of the State. Doctors have chosen to opt out of providing that care and focus just on the Medicare and private market or just on the private market.

So just the creation of Medicaid and SCHIP means we have eliminated some choices for these people where this coverage is their only option, it is their safety net. Now, if I had my druthers, I would rather be here debating overall health care reform because I believe every American should have the ability to be insured.

I am not sure I would have much disagreement in Congress or in America on that. We will have a big disagreement on how we get there, but we can get there. Were we to have that debate today, we would not be here talking about the expansion of one program that hits a small group of Americans and is targeted to put them in a one-size-fits-all program that only 40 percent of the health care professionals even participate in.

Now, having said all of that, SCHIP is up for reauthorization. We are now 10 years down the road, and we are talking about, How do you change this bill to apply what we have learned? Can we reach new efficiencies in cost? Can we cover more people? If so, how? Which States have done well? Which states can we learn from? Which have done poorly? Which states should we work with in the legislation to try to prod?

Well, we find in this legislation that in 10 years, we have moved from 200 percent of poverty to 300 percent of poverty. I do not have any big disagreement with that, with the rise in health care costs. Three hundred percent of poverty for a family of four is \$66,000 a year.

So under this program—SCHIP currently, not under the reauthorization bill—if a child lives in a household that has an income of \$66,000, above \$22,000, they are eligible in several states for SCHIP today.

So what is our experience so far? As we get ready for this reauthorization, we have 7.4 million children enrolled in SCHIP in 2008. But the average monthly enrollment for 2008 was 5.5 million, meaning that somewhere, somehow we have had almost 2 million drop out. They have moved to a different State. The income of their family changed. They are no longer eligible. So 5.5 million covered children today seem to be sort of the fixed point.

Well, how many are eligible today but not covered? I think my colleagues would be amazed to find out it is 5.4 million. We are covering 5.5 million, but we are not covering 5.4 million who are eligible under today's guidelines.

So in typical Washington response, what do we do? We come out with a reauthorization that expands the eligibility. Already we have in place a waiver where New Jersey can currently go up to 350 percent of poverty. Well, what

is that? That is \$77,175. Now in the reauthorization bill, we are going to grandfather the 350 percent, and we are going to go up to 400 percent for New York. What is 400 percent? Well, that is \$88,200. How do those 5.4 million who were eligible before get enrolled? Well, the answer is, they are not. This is what Dr. COBURN was talking about. How about the kids nobody is going out to enroll? Do auto enrollment. It is easy.

But that is not what this bill is attempting to do. This bill is attempting to increase the eligibility to get a bigger slice of America eligible for Government programs so that at some point the number of folks who are on Government programs—Medicaid, Medicare, SCHIP, VA, the list goes on—is well over 50 percent of America, and then the die is cast. We go to a single-payer system. The Government runs it, the Government tells us how much we get, the Government tells us where we go, and the American taxpayer pays for everybody.

Now, here is the decision the Senate has—the House has already voted this bill out. We have a decision whether we are going to stand up for those 5.4 million. Those are the tough ones. Those are the ones who did not walk into the door and raise their hand when their parents were told they were eligible and say: I want to enroll. I would like health care. I would like prevention. I would like a primary care doctor. I would like a medical home. No, they are the 5.4 million children who are out there to whom no State is reaching out. They are just letting them fall by the wayside. Rather than focus on the 5.4 million, we are focusing on how we increase eligibility, how we change the income parameters.

Let me point out New Jersey, which is grandfathered to 350 percent of poverty under this bill, ranked 47th in the country at enrolling children who are at 100 percent to 200 percent of poverty. Let me say that again. A State that we have allowed to be grandfathered in at 350 percent of poverty ranks 47th out of 50 in the United States at enrolling kids between 100 and 200 percent of poverty.

As a matter of fact, 28 percent of their children are uninsured in that 100 to 200 percent of poverty. Yet once again we are going to grandfather them and allow this incredible expansion to continue. So where is their focus? Let's go after the easy ones. Let's go after the ones in families who are easier to find and who are easy to enroll.

Well, why does that happen? Let me point out to my colleagues, Medicaid gets a matching rate from the federal government, depending upon which State you are from, and that rate is from 50 percent to 75.9, with a ceiling of 83. So as the State makes a Medicaid payment of \$1, depending upon what State you are from, the Federal Government reimburses anywhere from 50 cents to 83 cents.

But if you are enrolled in SCHIP, the range goes from 65 to 85. So if you are

on the bottom, if you are a State on the bottom, why would you lobby for expanded eligibility? It is because if you are on the bottom, you are going to have an increase in the Federal share of what you pay out from 50 to 65 cents. It is 15 cents of every dollar. You are crazy, if you are a State, for not lobbying for this because you are going to spread the cost over the entire taxpayer base. It makes a lot of sense if your focus is not on 5.4 million children and how they get covered and how they get health care.

If you are only focused on how you get a bigger piece of the Federal pie, if you are only focused on how you get a bigger share of space at the trough, then this makes a tremendous amount of sense. But from the standpoint of developing health care policy, it makes absolutely no sense whatsoever.

I don't take my position just looking at one section of the bill. Dr. COBURN pointed out, as I did earlier, that the financing of this bill is suspect. In fiscal year 2012, which is the last of 5 years, we allocate \$14.98 billion to fund the program, almost \$15 billion. Yet in 2013, the bill reduces the allocation to \$5.7 billion. How do you have a health care program for children, with all these people enrolled, that is sucking up \$15 billion a year, and all of a sudden, the next year it drops to \$5.7 billion? The answer is, you don't. We all know it. The reality is, you have to go to the next 5-year period to find the answer. The answer is, starting in year 6, out of the next 5-year budget, we do a one-time payment of \$11.7 billion on top of what it costs us to run the program for 2013.

So what does that mean? Frankly, it means the accounting methods used in Washington are not accounting methods any family in America could use because their creditors would walk in the door and shut them down. Yet we get up here every day and claim we do things just like people at home. In fact, we know when it comes to budgets, there is no American family who can get away with what we get away with, especially when it is this obvious. One year it costs us \$15 billion. The next year it costs \$5.7 billion. There are only two ways you accomplish that. You either reduce enrollment drastically or you magically come up with the money and you stick it in and say: Oops, we didn't understand that was going to happen.

We understood it was going to happen. It is done to fit the parameters, to get around pay-go rules so you can actually take this money and stick it right onto the deficit and the debt of the country. In other words, we are going to provide our children health care with one hand, and we are going to rob their financial future with the other, all at the same time. It is miraculous that we would even attempt to do this. At least we could ask for honesty and transparency in how we are funding this program.

It is important that we sort of recap. What is SCHIP? I think a lot of people

who might not have been in Congress very long, certainly weren't here in 1996 and 1997 when we passed it, people across the country might be saying: I have never heard of this program. Again, we saw the need in 1996 to create an insurance product for children's health, for those people who financially didn't qualify for Medicaid and didn't make enough to purchase insurance on the open market. SCHIP was created with the vision of trying to take kids from 100 percent of poverty to 200 percent of poverty and make them eligible for a program where 100 percent of them would have health care. Nationally, the parameters grew from 100 percent to 300 percent, and we still haven't met the original 1996 mission of covering all the kids. Because with 5.5 million people covered today, average monthly number, we still have 5.4 million over here who are eligible and don't have insurance. Clearly, we have a tremendous amount of work to do to get the SCHIP program to fulfill its original mission.

Let me go specifically to the bill before us. CBO estimates the bill will increase outlays by \$32.3 billion above the baseline over 5 years and \$65 billion over 10. The cost is offset by a tobacco tax. I am from North Carolina. I can get up and wail about how this is unfair. It is not the first time Congress has done it. It is the most regressive tax there is. In essence, we are taking a group who financially are challenged and, according to every analysis I have looked at, the people who are going to be most taxed by a tobacco increase are those people in the lower socio-economic levels. So, in essence, we are not spreading this across taxpayers. We are asking the parents of these children to pay for the expansion in eligibility because we are going to tax them for every cigarette they buy and consume. We are going to hope that they quit. When they quit, I am not sure how we are going to fund the program except probably do it the same way we are doing it in the year 2013. We will come up with the money in some way and some fashion.

It is important we realize today we have something we call a Medicaid sandwich. Medicaid starts here; SCHIP goes here; Medicaid wraps on the top. It is hard to believe we could have something designed that is so complicated for the States, that Medicaid applies here to some; SCHIP applies here to others; and Medicaid applies on top of that to an even larger group. If it seems confusing, it is. If it is this confusing, one has to ask: Why don't we change it? Why don't we fix it? Yet as I continue to go through the Baucus bill, what I find is that we are making it more complicated. We are designing it in a fashion that aggressively goes after an increase in enrollment but does not go after the 5.4 million children who currently today are unenrolled in the program but are certainly eligible. As a matter of fact, the Baucus bill spends \$34 billion over 5

years. It targets 5.7 million new children. I might add, 2 million of those children today are currently covered under their parents' insurance. So we have actually got a net pickup of 3.7 million kids who were uninsured. That is \$34 billion.

There is an alternative plan. It is called the McConnell substitute. It is called Kids First. It uses \$19.3 billion over 5 years to enroll 3.1 million kids who are uninsured today. So what do we get with the \$34 billion investment that we are not getting with a \$19.3 billion investment? The answer is quite simple: 600,000 uninsured kids who are enrolled under the Baucus bill. When you do the simple math on that, you find out you are paying \$4,000 per enrollee under the Baucus bill.

Now, I don't expect everybody to associate with this, but last year I had a son who was a senior in college. Because we have these funky Government rules that say no matter where you are in your education process, when you become 22, you are no longer eligible to be under Government insurance for your family—it doesn't apply just to Members of the Senate or to Congress; it applies to every Federal employee—I was forced, as a parent, to go out and go through the thought process of getting my son insurance. Sure, he is 22 years old. He is healthy as a bull. There is no reason I should suspect he is going to get sick. But what if something happens to him.

So I immediately did what every good Federal employee would do. I called the correct office up here, and I said: This has to be something you have run into. Have you got some type of gap insurance I can turn to and I can purchase for that 22-year-old healthy son? They said: Certainly, Senator. We have negotiated with the same company, the same plan he was under, and he can go on that tomorrow. I said: How much is that? They said: \$5,400 a year, for a 22-year-old, healthy-as-a-bull senior in college.

I did probably what every parent would do. I called the college and said: Have you got a plan? Here is the situation. They said: Absolutely. We have negotiated with the same company, with the same plan he was under as a child of a Federal employee. I said: What is the premium? They said: \$1,500 a year.

Now, that lesson I actually learned when I became a Member of Congress. When I became a Member of Congress, I chose the same insurance plan I was under in Winston-Salem, NC, working for a company of 50 employees, the same exact plan paying the same 25 percent, and the only difference was my health insurance cost went up \$100. Why? Because a company of 50 employees negotiated a better plan than the U.S. Government on behalf of 2 million employees. But it had been 14 years. I had forgotten that. I relearned it firsthand though with my son, when all of a sudden I realized he got a plan for \$1,500 that the University of North

Carolina Chapel Hill had negotiated, and the Federal Government had negotiated the same plan at \$5,400. No wonder parents are confused. No wonder most Americans are confused. What a screwed up market this is. How unbelievably complicated is it for an individual to try to go out and access insurance, and at what point do you actually know that you have found a value?

Let me try to bring some relevance to this story. For that 22-year-old, healthy-as-a-bull senior in Chapel Hill, his health care plan was \$1,500 a year. For all these 600,000 kids we are adding to SCHIP, we are spending \$4,000 a year to insure them. The average cost per policy for somebody under 18 in America today is about \$1,132. Yet under the Baucus bill we are going to invest \$4,000 per child, per those 600,000 children, to make sure they are covered—not a wise investment. But considering my experience with the Federal Government, I can understand why, for some people here, that makes absolutely perfect sense.

Let's assume for a minute somebody is going to say my numbers are wrong. I am sure they will before the debate is over. Let's assume for a minute we are trying to figure out the number of increased enrollees—and I am not talking about the ones who had their own insurance and we just shifted them over to government insurance—what are we paying for them? We are paying about \$2,200. They are still paying \$700 more a year to insure every child 18 and under than I paid in premiums to cover my 22-year-old, healthy-as-a-bull senior in college. So we are overpaying at least by \$700. At most, we are overpaying by almost \$2,500. Somewhere in that range, I would hope the American people would say: Hey, let's stop for a second. Let's call time out. Let's go back and get Congress to re-look at this program because this doesn't make a lot of sense.

I am not getting into any of the aspects that have already been addressed which deal with the loopholes that were created. I actually sat on the floor and heard somebody say this was a bipartisan bill. If you count one Republican vote out of the Finance Committee, then you are right, it is bipartisan. But I am not sure that is President Obama's interpretation of what bipartisanship is. He came to the Hill. He had lunch with us today because he is trying to get more Republicans to support a stimulus package because he doesn't want to just win it, and he doesn't want to win it by one vote. He wants the American people to understand that there is confidence up here in the legislation that is passed. He probably should have talked about this bill. It is going to be bipartisan, not by many votes.

If that is the type of bipartisanship we want, then it is going to be a long couple of years.

My hope is we can actually get something done. There are so many areas I

could talk about on this bill, but it would keep me here forever, and I see my good friend, Senator WHITEHOUSE, is in the Chamber.

Let me end with this. I am sure I will come back. What I want Members to search their souls and ask is, Is it really the Federal Government's responsibility and, more importantly, the taxpayers' responsibility that a family making \$88,000 be included in a plan that is designed and was originally designed to take care of kids between 100 and 200 percent of poverty? Do we feel bad that today 5.4 million children who are eligible at 100 percent to 200 percent of poverty are not enrolled in the program?

This is not the first time I have had a test like this. My own President, last year, proposed we increase spending for HIV/AIDS patients in Africa from \$15 billion to \$50 billion, and to many people's amazement, TOM COBURN and I supported the President. Then all of a sudden they made a change in the program. The program had always said 50 percent of the money had to go to the treatment of HIV and AIDS patients, meaning they actually had to deliver medicine to them.

Well, when all of a sudden the countries that got these Federal grants to carry out these programs in Africa looked at the program, they said: My gosh, for us to get from committing \$7.5 billion all the way up to \$22.5 billion in delivering medicines to people who have HIV or AIDS, that is going to be tough. We are going to have to work to find these people. It is going to be dangerous in some cases for us to get drugs out.

What did the White House do? They dropped the requirement in total. They did not require one dime of that \$50 billion to actually go to the delivery of drugs to HIV and AIDS patients. So what did we do? We held up the bill. We were taking flak from our own President because other people wrote a bill that was structured poorly. It actually did not accomplish what we set out to have with PEPFAR originally.

At the end of the day, they put back in the requirement of 50 percent, and today, for the multiple countries this applies to, we have a commitment that \$22.5 billion is going to go to actually treat individuals who have HIV and AIDS—our original intent of the program. We just expanded it.

Now, we were not going to get there just by saying it is difficult, therefore we do not think we should do that. And we are not going to cover these 5.4 million kids who are eligible but not enrolled if we say: Do you know what. This is hard. And since it is hard, why don't you change the program so the eligibility is wider so we can get some of the kids who are out here in different income groups who are easier for us to enroll than for us to go and find the 5.4 million who are so hard to find.

Well, I am going to say to my colleagues, just like I said to my President: No. That is not what we intended

to do. We put this program together to make sure the most at-risk kids in this country had health coverage, so they had a medical home. To suggest we are now going to change the parameters of this and allow a larger income pool to come in because it is hard to reach out and find these 5.4 million people, no; it is not going to happen. It may happen, but it should be as difficult at happening as it possibly can.

I look forward to the debate we are going to have. It is my hope we will have an opportunity to actually look at honest budget numbers that share with the American people exactly what this costs, that we can look at the eligibility requirements with predictability, understand who is going to have an opportunity to be enrolled, and, hopefully, at the end of the day, when a bill passes—whether we vote for it or not—that we can all look at it and say: There is a real chance that 100 percent of the kids at 100 percent to 200 percent of poverty have a real opportunity to be enrolled in this program. I fear without changes to this legislation that will not happen. We will not have fulfilled what we set out to do.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I see my colleague and friend from Virginia, Senator WEBB, who is prepared to speak, and we will recognize him in just a moment.

I would note there would have been, by our estimates, 3.3 million children who would have been covered had the bill passed in 2007. That would have been one very good way to reduce the number of children in this country who are not protected by health insurance.

Mr. BURR. Mr. President, will the Senator yield for a question?

Mr. WHITEHOUSE. Of course.

Mr. BURR. Would any of those 3.3 million children have been in 100 percent to 200 percent of poverty?

Mr. WHITEHOUSE. As I understand it, the bill contained both funds and programs for outreach that would have supported the States in their initiatives to find the children who, because their parents were moving or for one reason or another, were eligible but had not entered into these State programs. So I think the answer to that question would be yes.

Mr. BURR. Let me suggest to the Senator—and I will not ask him to yield much longer—there was the same expansion of eligibility in last year's bill, so the likelihood is any increase in enrollment would have been spread across not just the 100 percent to 200 percent of poverty, but all the way up to the 400 percent of poverty.

Mr. WHITEHOUSE. I think the increase in enrollment would have spread wherever the program went. There are very few areas, as the Senator knows, where the eligibility level is 400 percent of poverty. In the vast majority of the country, in my State, for instance, it is well below that. It is a program

that supports working families, that supports low-income working families, that makes sure their children get health care.

But for a number of reasons, probably the most prominent of which is people moving from location to location and not being registered with the local program, there are outreach requirements. I would be happy to work with the Senator on improving those outreach requirements in any way he wishes. But I think to hold the entire bill and his support—I think in this case we are estimating it will now reach 4.1 million children—hostage because of not having gotten the outreach better is a strategic mistake.

If your goal is to insure more children, then you should go about it by insuring more children. If the outreach is a problem, then we can happily make that better. But for outreach to be criticized, when it was President Bush who vetoed that bill, I am not sure how the distinguished Senator from North Carolina voted on that—

Mr. BURR. Mr. President, I would be happy to disclose to my colleague that I voted against the bill, for the same reasons that without changes I will oppose it this year because the eligibility requirement is being expanded.

As I said, and I thought fairly clearly, when you expand eligibility, you take the pressure off of making sure the enrollees come from the most at risk. It is my hope we can modify this bill. I am not embarrassed to be on the Senate floor and talk about the aspects of this legislation that I am unhappy with. But certainly I can count, and I know the majority can move this bill at any point they feel comfortable, and I am sure they will.

At the end of the day, it is my hope we will cover as many of the originally targeted children in that 100 percent to 200 percent of poverty as possible.

Mr. WHITEHOUSE. I understand the Senator from Virginia wishes to speak. I will simply respond before I yield the floor to Senator WEBB that I have had quite a number of years of experience with our Children's Health Program in Rhode Island, back to the years when I came in with Governor Sundlun in a bad economic crisis in Rhode Island—probably the largest percentage deficit in the State budget of any State ever recorded. Even in that very gloomy fiscal environment, Governor Sundlun insisted we build a statewide universal health care program that protected children.

SCHIP is very much in line with that. The people who have been working on that for these many years in Rhode Island—and I suspect it is the case in many other States—feel a real passion for trying to make sure children get health care, that they get the health care to which they are entitled.

So I am not sure the notion that by just putting more pressure on them, by just refusing to add any other children until they have done this, is really a productive or fair way to go about

reaching the children who have not been reached. What the bill does is provide outreach funds and empower these people who care so deeply about this issue to actually get out there and work harder to find them, have the additional resources to find people. From my work in law enforcement, my work with schools, my work on health care, there are a lot of people who live apartment to apartment, very hand to mouth, and it is a very significant challenge to keep up with them. The resources to do that, I submit, would be the best way to solve that problem, not holding one set of children hostage to providing health care for another set of children.

With that, Mr. President, I yield the floor for the distinguished Senator from Virginia.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Virginia.

Mr. WEBB. Mr. President, I thank the Senator from Rhode Island, and I am here to speak in favor of this legislation. This is a very important piece of legislation. It is long overdue. I also would like to point out that I have an amendment I will offer.

I am very concerned about the way this legislation is going to be funded. We all have our own issues with respect to whether tobacco should be used or not used, but to fund an entire program based on a tobacco tax, I think, is not the way to go for a number of reasons. So I am offering an amendment that will help offset this highly regressive, 61-cent-per-pack increase in the cigarette tax that is being used to fund this bill, and to add on to the bill a tax on carried interest, which is the compensation that is received by hedge fund managers. This proposal would generate \$11.2 billion in revenue over 5 years. Tobacco taxes would thus be raised by a more reasonable 37 cents a pack to make up for the shortfall between the revenue being generated by this amendment and the costs of the CHIP reauthorization.

Tobacco is already federally taxed at 39 cents per pack for the CHIP program. All 50 States and the District of Columbia also impose an excise tax on cigarettes above this tax. For instance, my State of Virginia adds 30 cents on top of the present tax. In these difficult times, many States, including Virginia, are considering an increase in their State excise tax.

So we would have, with the amendment I am going to offer, the 39-cent Federal tax that is already in place on a pack of cigarettes, an additional 37 cents—instead of an additional 61 cents—plus the State taxes on cigarettes; and a big proportion of this—all the Federal tax—going to fund a health program.

I would like to be clear that there is no question in my mind about the fact that we do need to reauthorize and expand this program. But I do not think it is a proper to fund this program on the backs of people who, for better or

worse, smoke cigarettes. I am a reformed smoker. Many of my contemporaries in the Senate are reformed smokers. I am not encouraging anyone to smoke cigarettes. I hope you do not. I just believe although tobacco taxes are already a popular source of revenue, it does not change the reality that this tax is regressive.

We had a Congressional Research Service report brought to my office, and I am going to quote from it. It said:

Cigarette taxes are especially likely to violate horizontal equity and are among the most burdensome taxes on lower-income individuals. Only about a quarter of adults smoke, and less than half of families have expenditures on tobacco. Tobacco is more heavily used by lower-income families than are other commodities, and is unusual in that actual dollars (in addition to the percent of income) spent on tobacco products decline in the highest income quintile.

My amendment will help soften the blow of the increase in the cigarette tax.

Let me provide some background on carried interest. A partner of a private equity or hedge fund receives two different types of compensation. First, hedge fund managers receive management fees that are linked to the assets they oversee. Second, they receive what is called “carried interest,” which is compensation based on the percentage of the profits generated by the assets they manage. Currently, carried interest is taxed at a capital gains tax rate. As noted by Peter Orszag, who is now a member of the Obama administration, in his 2007 testimony, many economists view carried interest as:

Performance-based compensation for management services provided by the general partner rather than as a return on financial capital invested by that partner.

Given that carried interest is performance-based compensation, it makes sense to tax it as ordinary income. This compensation has been earned by many of the same people who helped bring about the present financial crisis. The Financial Times stated these managers “have made fabulous sums in recent years.” Given the need to pay for children’s health insurance, it makes more sense to have these persons, who are better positioned to pay for it, pay a greater percentage of the cost.

When it comes to taxing carried interest as ordinary income, there is a wide acceptance in support of this proposal among thinkers and editorial writers across the country. The Financial Times itself editorialized “this repair should be done at once.” They made that statement 2 years ago.

I have a string of editorials that support the idea of closing this carried interest loophole as a matter of fairness. I ask unanimous consent they be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. WEBB. They include editorials from the Washington Post, New York

Times, USA Today, the Philadelphia Inquirer. In fact, the Washington Post in 2007, in talking about this particular tax break, said this:

The only mystery is why Senate Democrats don’t have the good sense to grab on to this as their centerpiece domestic issue. It’s hard to think of an issue that better taps into the public anxiety about the markets and the economy, the anger about income inequality, or the disgust with a political system that bends to the will of powerful interests.

The Washington Post continued:

This is a make-or-break issue for Democrats. If they can’t unite around this issue, then they aren’t real Democrats and they don’t deserve to govern.

The New York Times in 2007 talked about this issue, mentioning:

With income inequality surging along with the need for tax revenue, supporters rightly conclude that it is untenable for the most highly paid Americans to enjoy tax rates that are lower than those of all but the lowest income workers.

Congress will achieve a significant victory, for fairness and for fiscal responsibility, if it ends the breaks that are skewing the tax code in favor of the most advantaged Americans.

There are others and, as I mentioned, I will insert the full text of these editorials at the end of my comments.

I also should point out that our new President, President Obama, has supported throughout his campaign the idea of taxing carried interest as ordinary income.

So the choice is this: Do we help fund this program, which we all agree is critically necessary, with a well-deserved tax adjustment for some of those who are the most capable of absorbing a new tax, or do we take money exclusively from tobacco, causing people who in large part are in the same economic circumstances as the beneficiaries of this health insurance program to foot the bill?

Let’s think for a moment about the irony of that. We are taxing a practice that we deem unhealthy in order to fund a health program, and we supposedly want this practice to go away, but if it goes away, we are not going to be able to fund our health program.

So we need to find a way to fund health care needs that is sustainable and fair, and a declining revenue source is not sustainable. I hope my colleagues will join me in supporting this measure, which will partially offset the cigarette tax that is a part of the bill. I again wish to express my strong appreciation to Chairman BAUCUS and to others, such as my colleague from Rhode Island, who have worked so hard on this bill and who work to help those in our system who are most in need of medical care.

With that, I yield the floor.

EXHIBIT 1

EDITORIALS SUPPORTING CLOSING PRIVATE EQUITY/CARRIED INTEREST LOOPHOLE AS MATTER OF FAIRNESS

[From the Washington Post, Sept. 9, 2007]
PRIVATE-EQUITY TAX BREAKS, A CALL TO BE UP IN ARMS

Even by Washington standards, the private-equity industry certainly went over the

top in conjuring up the economic woes that would befall the United States if their cherished tax breaks were taken away.

Pensioners would be destitute. Wall Street would pack up and move to Dubai. The hedge fund industry would disappear. Federal revenue would plummet. Entrepreneurial risk-taking would grind to a halt. And the urban underclass would slip even deeper into poverty.

And all that just because some of the richest people in the world would have to pay the same 35 percent tax rate on their income as dentists, lawyers and baseball players.

There is no mystery as to why the industry bothers to make these ridiculous and contradictory arguments—billions of dollars in tax windfalls are at stake.

The only mystery is why Senate Democrats don't have the good sense to grab onto this as their centerpiece domestic issue as they head into the 2008 campaign. It's hard to think of an issue that better taps into the public anxiety about the markets and the economy, the anger about income inequality, or the disgust with a political system that bends to the will of powerful interests. And if Republicans go through with their threats of a filibuster and a presidential veto, Democrats ought to put aside all other business and call their bluff.

This is a make-or-break issue for Democrats. If they can't unite around this issue, then they aren't real Democrats and they don't deserve to govern.

[From the Washington Post, July 13, 2007]
EQUITY FOR PRIVATE EQUITY; LEGISLATION TO RAISE TAXES ON FUND MANAGERS' INCOME

Investment partnership funds can be enormously profitable, highly secretive and lightly regulated. People tend to get suspicious.

As a result, government bodies periodically try to tamper with private equity firms, hedge funds, venture capital firms and the like. This largely unregulated industry does a lot to stabilize America's financial system by fostering innovation and bringing inefficient or undervalued markets closer to equilibrium, and most of these attempts to regulate or reconfigure the industry would be bad for the U.S. economy. But this time around Congress has proposed legislation that makes sense.

A House bill would set a higher tax rate for "carried interest," the cut of profits typically awarded to fund managers at private equity firms and other investment partnerships. In these investment partnerships, a fund manager typically manages the investment made by himself and various limited partners, with the manager usually contributing about 1 percent of the investment. The fund manager then usually receives 2 percent of the assets he manages annually and 20 percent of the profits earned on the investment when it is sold. Even though this 20 percent cut makes up the bulk of the manager's compensation, and even though it is awarded for managing others' money, under current tax law this income is treated as capital gains rather than ordinary income. As a result, fund managers who make zillion-digit incomes from carried interest can be taxed at the same rate (15 percent) as a part-time janitor.

The House bill, sponsored by Sander M. Levin (D-Mich.), Ways and Means Committee Chairman Charles B. Rangel (D-N.Y.), Financial Services Committee Chairman Barney Frank (D-Mass.) and 13 other Democrats, would close this loophole for fund managers and treat their "carried interest" earnings as regular income taxable at the ordinary 35 percent top-income rate that high-earning employees in other industries must pay. The

bill would not affect the other investors in these funds, nor would it affect the tax rate for profits that fund managers make on investments with their own money.

A Senate bill that also attempts to bring equity to the private equity industry would force investment partnerships that are publicly traded—right now, only a handful—to pay corporate income taxes. Support for the Senate bill has gained some momentum because of Blackstone Group's splashy initial public offering, one of the largest in history.

The Senate's corporation-rather-than-manager-based solution seems less effective, however, because companies can easily move overseas (as many have already done), while individuals are less likely to do so. Investment partnerships can also simply choose not to go public.

Critics of the two bills argue that investment fund managers should be rewarded for taking high risks. But these fund managers, for the most part, are not risking their own money, and they're paid management fees during the duration of their partnerships, so they have steady incomes. Besides, plenty of risky industries don't enjoy comparable tax benefits. Income earned from managing an investment partnership fund should be treated just like the income earned for providing any other service.

[From the New York Times, June 25, 2007]

RAISING TAXES ON PRIVATE EQUITY

So much for the argument often made by managers of hedge funds and mavens of private equity that higher taxes would cripple their business.

The prospect of higher taxes did not dent, in the least, the initial public offering on Friday of the Blackstone Group, the giant private equity firm. The week before, a bill was introduced in the Senate to raise taxes on private equity firms that go public. On the day of the offering, a House bill was introduced that would raise their taxes, whether they're publicly traded or not.

And yet, Blackstone had a debut that was one of Wall Street's biggest, its thunder muted only by the announcement by its longtime rival, Kohlberg Kravis Roberts, that it, too, planned to go public.

The bills in Congress take aim at a provision of the tax law that has allowed private equity and hedge fund operators to pay a lower capital-gains tax rate of 15 percent, instead of the ordinary top income-tax rate of 35 percent, on the performance fees that make up the bulk of their huge paychecks.

With income inequality surging along with the need for tax revenue, the bills' supporters rightly conclude that it is untenable for the most highly paid Americans to enjoy tax rates that are lower than those of all but the lowest-income workers.

Fairness is not the only reason to change the rules. The private equity industry is on shaky ground when it claims that current practice is a correct application of the law.

Many of the firms' partners are not investing their own money in the various funds and ventures, and so have no direct risk of loss, the general test for claiming capital-gains treatment on one's earnings. Moreover, the tax rules in question were developed decades ago for enterprises that had passive investors to whom gains were passed along. Hedge fund managers and private equity partners are not passive. They're actively managing assets, and should be taxed accordingly as managers earning compensation.

The challenge now is to develop a single bill that can withstand the formidable lobbying efforts of the private equity industry to water it down.

To do so, the final bill should clearly apply to other firms where partners may also re-

ceive most of their pay as capital gains, such as oil and gas partnerships. It will also be necessary to narrow the bill, where appropriate. For instance, it could include a mechanism to allow some compensation to be taken in a form similar to incentive stock options.

Congress will achieve a significant victory, for fairness and for fiscal responsibility, if it ends the breaks that are skewing the tax code in favor of the most advantaged Americans.

[From USA TODAY, July 23, 2007]
WEALTH MONEY MANAGERS MAKE MORE, GET TAXED LESS

As many business executives, doctors, lawyers and other skilled professionals know, the top income tax rate is 35%. The top rate on dividends and long-term capital gains is 15%.

Whether it makes sense to tax the output of expertise and hard work at more than twice the rate of investment returns is debatable. But, for better or worse, that's the way it is.

Except, that is, when it isn't. Owners of companies, ranging from small real estate partnerships to multibillion dollar hedge funds and private equity firms, have devised a way to erase this distinction. Their managers pay 15% on their income by dressing it up as investment returns—even though they bear no investment risk or put none of their own money in play.

Nice work if you can get it. But in this case it constitutes a frontal assault on fairness. Why should such people pay only 15% when senior corporate executives pay 35% for making many of the same types of business decisions? More to the point, it's hard to see the logic (or the justice) in a school teacher or bus driver with taxable annual family income as low as \$63,700 paying 25% when someone like Blackstone Group CEO Stephen Schwarzman can make nearly \$700 million on the day his firm went public and pay at most 15%.

Congress is rightfully re-examining the issue. Reps. Sandy Levin, D-Mich., and Charles Rangel, D-N.Y., have a proposal. In the Senate, Max Baucus, D-Mont., and Chuck Grassley, R-Iowa, have a useful, if narrower, bill.

The practice they are seeking to ban or limit is a transparent ruse. Here's how it works using the example of a private equity firm: The partners raise capital from banks, pension funds and other large investors, which they use to buy companies and resell them. Their investors give them some direct compensation, which is taxable as income.

But most of the compensation comes in the form of an investment vehicle known as "carried interest," which gives them a right to a portion of the profits they generate (typically 20%). That portion of the profit is taxed 15%, just as if they supplied 20% of the capital at the outset.

It's a creative practice, but with a result that says the rich get to write their own rules. That's not a new problem in the American tax system, but it is nevertheless repulsive. Income is income, or so you'd think.

Supporters of this scam argue that these money managers actually are risking their own investments. It's just not money, in their case, but their "sweat equity," their time, their expertise. But the same could be said of the lawyer who takes a case on a contingency fee, the movie actor who negotiates a cut of the box office receipts, the financier who chooses to work for a firm known for paying enormous bonuses during good years. In most, if not all, of such cases, these people pay income taxes.

And so should partners in these exotic investment firms. More so because the tax

they avoid paying is money that has to be made up by people of lesser means—or borrowed from later generations by adding to the budget deficit.

These schemes add insult to injury at a time of increasing wealth concentration. It is time to end them.

[From the Philadelphia Inquirer, Sept. 19, 2007]

EQUITY MANAGERS' LOOPHOLE; BILLION-DOLLAR BREAKS

For years, a relatively few players in the corporate takeover game have benefitted from a tax loophole that costs the federal government billions annually.

Now a push is under way in Congress to tax these wealthy managers of private equity funds at the same income-tax rates as everyone else. Congress should end this unfairness in the tax code.

Most workers pay income taxes on a graduated scale, with marginal tax rates running from a low of 10 percent, to a high of 35 percent for the wealthiest wage earners. But managers of private equity funds, who usually do extremely well for themselves, pay only a capital gains tax rate of 15 percent on most of their income. That's because the tax code considers their wages "carried interest," even though this compensation can run into hundreds of millions of dollars per individual. The preferential treatment can be worth millions of dollars to such a manager.

Rather than being taxed on compensation for services rendered, these managers are taxed as though they had invested a 20-percent stake in the fund. But, even though they sometimes gain equity stakes in the companies they buy and manage, they don't have capital at risk in the ventures. They're really being compensated for their expertise and effort.

This definitional fiddle creates a class of service provider that is taxed a preferential rate. Economist Greg Mankiw, former chair of the Council of Economic Advisers under President Bush, has said that carried interest should be taxed at the same rate as other compensation for such services. As it stands now, an executive in a financial-services firm is taxed differently from the manager of a private equity or a hedge fund.

There's no good reason why a person earning \$200 million per year should pay a lower tax rate than a single worker earning \$45,000 annually and paying 20 percent in taxes.

The loophole costs the Treasury several billions of dollars per year. The sum is small compared with the overall federal budget. But in a budget season in which Congress and the president are feuding over a difference of about \$22 billion, such sums do matter.

Some argue that taxing these fund managers at a higher rate would harm ordinary investors, such as those enrolled in state employee pension plans, because the fund managers would demand higher compensation. But the evidence is slim. The liberal Center on Budget and Policy Priorities, a nonprofit think tank in Washington, said the impact on investors would be "quite small."

And this glaring inequity shouldn't be preserved on the presumption that a tiny fraction of it will trickle down to the folks already paying their fair share.

[From the Washington Post, Nov. 8, 2007]

NO PAY, NO PATCH

Nearly everyone wants to "patch" the alternative minimum tax. Not everyone wants to pay to do so. That is the challenge facing lawmakers as they race to install yet another temporary fix on the tattered federal tax system in time for the Internal Revenue Service to produce forms reflecting the

change. How this job is accomplished will show whether congressional Democrats are willing to live up to the pay-as-you-go obligations they imposed on themselves when they retook control of Congress—and whether Republicans can regain any credible claim to being committed to fiscal discipline.

The alternative minimum tax was created in 1969 to dun a tiny number of the super-rich who managed to avoid paying any income taxes. Because the tax isn't indexed for inflation and because the 2001 tax cut lowered regular tax rates, the AMT, without adjustments, will affect millions of taxpayers who everyone agrees were never its intended targets. But exempting those millions will cost a lot in forgone revenue, money that the Bush administration has built into its budget numbers. Because fixing the problem is expensive and complicated, lawmakers have chosen for years to slap a Band-Aid onto it—and bill the cost to future generations. This year's model totals \$50 billion, \$76 billion when the cost of extending expiring tax provisions and other changes is included.

To its credit, the House Ways and Means Committee has produced an AMT patch whose costs are offset by other changes, including eliminating the carried-interest deduction that allows private equity and hedge fund managers to pay taxes at far lower rates than other wage-earners. This is far from a perfect solution: It would take 10 years of revenue to pay for the one-year patch.

It's preferable, though, to the approach of congressional Republicans and the Bush administration, which is to not offset the tax cut with new taxes or spending cuts. House Minority Leader John A. Boehner (R-Ohio) was illustrative of the irresponsibility. "Tax relief pays for itself by creating more American jobs for more taxpayers to strengthen our economy," he said in a statement. Perhaps Mr. Boehner believes that the Tax Fairy will simply leave \$50 billion under the IRS's pillow; there is no economic basis for his statement that "tax relief pays for itself." Moreover, if Mr. Boehner doesn't like the way Democrats propose to finance the patch, what would he cut instead?

Republicans may not be the only obstacle to responsibility. Senate Democrats say they want to comply with the pay-go requirement, and there were hopeful signs last week from Majority Leader Harry M. Reid (D-Nev.). "I'm not in favor of waiving pay-go rules," he said. "I think we cannot waver on that." But Senate Finance Committee Chairman Max Baucus (D-Mont.) has been less definitive, saying only that he'd like to comply with pay-go to the extent possible; he has also not been eager to close the carried-interest loophole. Once the pay-go rule is ignored, though, lawmakers won't be able to discipline themselves in the future. This is a key test for the party that wants to wear the mantle of fiscal responsibility.

[From the New York Times, Nov. 8, 2007]

ALTERNATIVE TAX SHOWDOWN

The House and Senate are poised to vote on a vitally important tax bill that poses a test for each chamber of Congress. In the House, the vote on a short-term fix for the alternative minimum tax will test whether Democratic representatives have the courage of their convictions. In the Senate, the vote will test whether Democratic senators have any convictions at all, or just a belief in keeping the world safe for campaign contributors.

Under current tax law, 23 million taxpayers will owe the alternative tax for 2007, up from 4 million last year. The tax was originally intended to apply to multimillionaires. But most of this year's alternative

taxpayers make between \$100,000 and \$500,000 and about a third make less than \$100,000. They all have good cause to feel rooked and to expect help from Congress.

The challenge is the "pay-as-you-go" budget rule adopted when Democrats took control of Congress this year. New tax relief must be paid for, either by raising taxes elsewhere or by cutting government benefits like Medicare or Social Security that cover everyone who is eligible. The one-year cost of shielding millions of Americans from a tax they should not have to pay is \$51 billion.

The House tax committee met the challenge, drafting a bill that provides the needed tax relief and plugs the resulting budget gap, mainly by raising taxes on private equity partners and hedge fund managers. The bill is good policy. The tax relief assuages justifiably aggrieved taxpayers. Tax increases on private equity firms and hedge funds rectify outdated rules that have allowed the very wealthiest to enjoy tax rates lower than those paid by middle-income Americans and, in some cases, to defer taxes indefinitely.

But key Democratic senators, among them New York's Charles Schumer, who is the main fund-raiser for Senate Democrats, are balking. They know they must provide alternative tax relief, but they don't want to tax private equity and hedge funds to pay for it. Their defense of the industries' morally indefensible tax breaks is tawdry. As The Washington Post reported yesterday, in the first nine months of 2007, as pressure built to dismantle the tax breaks, investment firms and hedge funds contributed \$11.8 million to candidates, party committees and leadership political action committees. That's more than was given in 2005 and 2006 combined. More than two-thirds of that money went to Democrats.

The Senate's equivocating has rubbed off somewhat on the House. The bill is still expected to pass the House, as early as tomorrow, but some members have wondered aloud why they should support a tough measure if the Senate is determined to kill it.

The answer is that it is the right thing to do. The House bill holds true to the pay-as-you-go rule when doing so matters most, that is, when large sums and difficult trade-offs are at stake. It undoes a tax injustice. And maybe, just maybe, the money men in the Senate can be swayed by example.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, this week we have the chance in the Senate to provide health insurance to 4.1 million children in this country who now don't have it, to cover 11 million children total. All we have to do is the right thing and pass H.R. 2, the Children's Health Insurance Program.

I know the distinguished Presiding Officer from Nebraska and the distinguished Senator from Virginia, who has just spoken so eloquently, have shared the experience I have had in my home State of Rhode Island, and that is to travel around and hear personal stories from people whose lives and whose health have collided with our broken, dysfunctional health care system. Too often, families in this country can't afford to pay for the care they need. As our economic troubles worsen, that problem only grows more acute. Too often, they can't even get in to see a doctor. Too often, when they do receive care, it falls short in quality, in efficiency, in effectiveness, and in timeliness.

The crisis in our health care system affects all of us, but it is greatest and it is most tragic when it affects our children. That is why Congress created the Children's Health Insurance Program which for years has given millions of uninsured, hard-working American families access to health care for their kids.

The program has not only expanded health care coverage for children, it has encouraged States to be flexible, innovative, and responsive in meeting their families' health care needs. We come from 50 different States with 50 different sets of history, demographics, and economics, and as a result, the States come up with different programs. That is something to celebrate, not to bemoan. The program has safeguarded the vulnerable, it has united families, and it has invested in the future of our Nation. It is a special program of all the things that we do here.

The Children's Health Insurance Program means that children are more likely to receive medical care for common conditions such as asthma or ear infections. It means that children end up with higher school attendance rates, and that children have higher academic achievement. It means that children have more contacts with medical professionals. It means that children receive more preventive care. It means that children go to the emergency room when it is an emergency, and when it is not, they have someplace else to go that allows them and their families to stay out of those expensive urgent care settings. So as we have done for the past 2 years, this week we are working to pass legislation to ensure that every eligible uninsured child in America can get regular checkups when they are well and can get medicine when they are sick.

Not long ago, former President Bush denied children needed health care coverage by vetoing this legislation. But the American voters have spoken and we are in a new era in this country—a new era for peace of mind, for security, and for dignity for American children and for their families. With a new Congress and a new President committed to health care for all American families, I could not be more hopeful as we discuss this bill today.

I am especially proud to serve with my senior Senator, JACK REED of Rhode Island, and to support him in this fight. I have been in the Senate for 2 years now. Before I even got here, JACK REED was one of the most prominent, most ardent, and most determined fighters for our Nation's children. Frankly, it is in significant part due to his relentless work that we have come this far.

I am proud also to represent a State that has one of the lowest rates of uninsured adults and children in the Nation. It was not easy. Rhode Island worked hard over the past 15 years to achieve this success. It began with the RIte Care Program in 1993. In 2001, the creation of the Children's Health Insur-

ance Program allowed Rhode Island to further reduce uninsurance rates in the State. I am proud to be on the team of former Governor Bruce Sundlun who turned 89 a few days ago. When he was Governor, he created the original RIte Care Program. His vision and determination to do this, in a time of grave economic straits for Rhode Island, has yielded immense rewards. Now, as health care costs skyrocket and the number of people in this country who lack health insurance approaches the staggering number of 50 million—50 million Americans, and so many of them children—we in Congress have an obligation to strengthen initiatives like RIte Care through which States have made health care more accessible.

Today, 4.1 million uninsured children are waiting for us to pass this bill; 4.1 million children who might not see a doctor this winter when they get the flu because their parents can't afford to pay out of pocket for the visit; 4.1 million children who might delay needed vaccinations or other preventive care because their parents have to buy food instead; 4.1 million children who might not get an inhaler or insulin or—heaven forbid—chemotherapy because in this economic downturn, the money just isn't there.

Who could say no to uninsured, vulnerable children? Should we not at least be able to agree on that? Why would anyone say no? We plan to raise taxes on cigarettes, a tax that the American Cancer Society says could prevent nearly 1 million deaths and keep nearly 2 million children from starting to smoke; a tax with health savings that could ultimately decrease government costs for government health care programs; a tax that the Congressional Budget Office confirms will fully offset this bill so as not to add to our deficit. I don't think that would be a good reason to deny vulnerable children the safety and security of health insurance.

During the course of this discussion, some Members have tried to make this debate about illegal immigration. It is not. We should not permit the very difficult issue of illegal immigration to affect this bill to deny millions of children the health care they badly need. That would be a grave mistake. That would be a wrong.

Let me be very clear: Only children who are legally in the United States are eligible to receive coverage under Medicaid or the Children's Health Insurance Program. They must document their immigration status. Medicaid agencies use information provided by the Bureau of Citizenship and Immigration Services to confirm the status of legal immigrants applying for benefits. Further, this bill does not even require States to cover legal immigrant children. It simply provides and supports that option.

Legal immigrants pay taxes, they serve in our Armed Forces, and just like the rest of us, they play by the rules. They are our future citizens, and

insuring their children makes sense. This was the law until 1996 when sweeping restrictions affecting legal immigrants were made. Since 1996, we have become wiser, and many of those restrictions have been reversed on a bipartisan basis by Congress. The provision in this legislation covering legal immigrants is fully consistent with that trend back to 1996 levels.

This Nation is slowly emerging from a dark time when our ideals and our virtues were too often hidden in the shadows, when we let our fear overcome our principles and our better judgment, when we lost sight of our priorities and left millions of people in the cold and millions of children uninsured. That time can end now.

This bill is a chance to show these millions of Americans that we have heard them and that we stand ready to help. We know how tough it is for working families in this economy. If there is one worry, one burden we can take off those parents' shoulders so they can be sure their children have the health insurance every American deserves, we should stand ready to help. This country should once again own its duty to protect those who cannot protect themselves and to restore dignity and hope where it has diminished.

I close by applauding Chairman BAUCUS and the Finance Committee for bringing this vitally important and long overdue legislation to the floor.

I urge all of my colleagues—it would be wonderful if we could do this together—to allow these 11 million children to be covered by health insurance, to have access to the health care they need, to grow up healthy and strong and ready to seize the boundless opportunities that are at the heart of the American dream.

I think we will find in the months and in the years ahead that there will be things we cannot do to help families. I know everybody in this Chamber wants to do everything they can, and we want to work as hard as we can, but the economic situation is dire, and we are not going to be able to do everything we would like. But this is something we can do for American families and for their children, and I hope very much we will do it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

COMMITTEE ASSIGNMENTS

Mr. REID. Mr. President, in accordance with S. Res. 18, I announce that the following Democratic Members have been assigned to the following committees: Agriculture, Mr. BENNET and Mrs. GILLIBRAND; Banking, Mr.

BENNET; Environment and Public Works, Mrs. GILLIBRAND; Foreign Relations, Mrs. GILLIBRAND; Homeland Security, Mr. BENNET; Aging, Mr. BENNET and Mrs. GILLIBRAND.

The PRESIDING OFFICER. The RECORD will show the appointments.

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

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

Mr. REID. Mr. President, I ask unanimous consent that, at 5:25 p.m. today, the Senate resume consideration of the DeMint amendment, No. 43, with the time until 5:45 p.m. for debate with respect to the amendment, with the time equally divided and controlled in the usual form, with no amendment in order to the amendment prior to a vote; that at 5:45 p.m. the Senate proceed to vote in relation thereto; that upon disposition of the DeMint amendment, the Senate resume consideration of the Hatch amendment, No. 45, with 2 minutes of debate equally divided and controlled prior to a vote in relation to the amendment, with no amendments in order to the amendment prior to a vote; that upon disposition of the Hatch amendment, the Senate proceed to executive session and the Banking Committee be discharged from further consideration of the nomination of Daniel K. Tarullo to be a member of the Board of Governors of the Federal Reserve System; that the Senate then proceed to vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action; that the Senate then resume legislative session; further, that after the first vote in this sequence, the remaining votes be 10 minutes in duration.

If I could say to Senators within the sound of my voice, we would be having more votes today, but I conferred with Senator McCONNELL. The Finance Committee is involved in marking up the economic recovery plan. There are scores of amendments they are trying to work through so we are limiting the number of amendments today. We are going to work hard tomorrow, as I indicated when we opened today. We are not going to have morning business all week. We are going to get these amendments processed as quickly as we can.

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

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

The PRESIDING OFFICER (Mrs. McCASKILL). Without objection, it is so ordered.

Mr. WHITEHOUSE. Madam President, I see the very distinguished Senator from Arkansas in the Chamber to take over managing this bill.

Before I leave the floor, I want to make two points. I have been here while a great deal of discussion has taken place about 5.4 million children who are eligible for children's health care but who, through lack of effort, it is claimed, the State programs are not finding. The purpose of the argument has been to argue if we could make the States find these kids, they would be the ones for whom the program was truly designed, and that the 4.1 million additional children we are going to help with this legislation are sort of a distraction from that figure.

I have not been able to source that 5.4 million number to anything. I would note on a population basis, my State of Rhode Island is one three-hundredth of the country. So if there are 5.4 million kids out there, in that circumstance, Rhode Island should have, by my math, 18,000 of them. We only have 12,000 kids in the CHIP-funded portion of what we call the RIte Care Program.

From my own experience, the likelihood of there being 18,000 eligible children in our small State who cannot be found makes no logical sense at all, which gives me significant pause about the validity of this 5.4 million number upon which so much of our colleagues' argument stands.

The other point I would make is there are many States that could reach more eligible children, but the funding is not there for them. Rhode Island is one such State. When other States return funds, we get access to that pool, and we can expand our coverage.

So, in fact, by supporting this legislation, you will enable the State programs to reach whatever that group of kids is, whether it is 5.4 million or 540,000. I do not know what the number is. Madam President, 5.4 million sounds very unlikely. But even setting that question aside, the fact that we would vote against this piece of legislation in order to help those 5.4 million kids makes no sense whatsoever because this legislation contains both the funding and the outreach tools to allow the State programs to reach those very kids.

So that argument, at least from this Senator's perspective, appears to hold no water whatsoever, or at least requires substantially better justification and support before it should be counted on, at least in my view, by any Senator as a reason to oppose this piece of legislation.

With that observation, 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. DEMINT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 43

Under the previous order, the time until 5:45 will be equally divided and controlled prior to a vote on amendment No. 43, offered by the Senator from South Carolina, Mr. DEMINT.

The Senator from South Carolina is recognized.

Mr. DEMINT. Thank you, Madam President.

I wish to take a few minutes to talk about an amendment I am offering as part of the children's health plan we will be voting on probably later this week.

I think it is important, as we talk about expanding the program, we do it responsibly and make sure we do everything we can to keep personal responsibility as part of the plan. All of us, Republicans and Democrats, look forward to the day when every American family has a health insurance plan they can afford and own and keep.

The children's health plan is, I see, maybe an interim step to that. It was started to help America's poorest children be insured. The plan we are discussing today, however, expands the children's health plan to children over 200 percent of poverty. One of the things we want to make sure does not happen is people who have private insurance and have taken responsibility for health insurance for their family are not encouraged to drop their private insurance and to join a government children's health plan.

There are ways we can do it, and some States already do this. This is by adding cost-sharing provisions for those who take advantage of the government children's health plan. That is what my amendment is about: making sure States that provide Government health coverage to families over 200 percent of poverty have some cost-sharing arrangement to send the signal that this is not a permanent subsidy from Government but a temporary bridge to help families who need some help getting health insurance for their children to get the help they need.

So let me talk a little bit about what is in there.

Again, the main goal of this amendment is to stop the people moving from private plans—that they are paying for and taking responsibility for—to a Government-sponsored plan so there is accountability, and that is what we want to make sure is in this system.

We need to remind our colleagues the children's health plan was created for America's poorest children. I wish a lot of our emphasis and debate was on: How can we get more children under 200 percent of poverty actually registered for the program? There are millions of children today who qualify for the current children's health plan who are not registered, either for what we call SCHIP or for Medicaid. Instead of

just taking those numbers up and expanding the people who can take advantage of the program, we should be trying to get those who are most needy registered for the program. Instead, I am afraid we are going to crowd out those folks, as we provide insurance for other families. In some States, under this plan, families making over \$70,000 a year, with a family of four, can take advantage of Government health plans.

So what we are going to have is one person making \$70,000 a year paying for their own private insurance and their neighbor making the same amount who has Government health care. There are ways we can discourage it. A number of States already require that the beneficiaries of this children's health plan pay a copay or a small part of the cost of the health insurance, and that is what this amendment does.

My amendment specifically would require that States that are offering the children's health plan to families above 200 percent of poverty have some minimum cost-sharing. We protect the beneficiaries by saying that no State can charge a user of the children's health plan more than 5 percent of their monthly income, and we don't have a minimum. So we expect most States to have a very minimum cost-sharing plan put in place.

What we are doing does not replace or change anything that States already have set up for cost-sharing. In fact, I think it will make it fairer for them. The way the system will work, unless we pass this amendment, is the people in States that are participating in the costs of this plan will help pay more for those States that don't have any cost-sharing. So it is not fair, if we have some States encouraging personal responsibility and cost-sharing, to put more of a burden on them to pay for States that might not do the same.

My belief is that every State would implement for families over 200 percent of poverty a cost-sharing arrangement. What this does is just lays out some basic parameters that give the States complete flexibility, whether it is a copay, whether it is a percent of the insurance, but not to exceed 5 percent of the income of any of the recipients.

I understand this is the next amendment to be voted on. I encourage all of my colleagues to do everything we can to stop any incentives that move people from private insurance to Government insurance, create some accountability and personal responsibility in this plan for the ones with higher incomes, and to save more of the dollars for those who are most needy in the plan.

Again, I encourage a vote, and I reserve the remainder of my time.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Madam President, I ask unanimous consent that the time during the quorum call be divided evenly, and I suggest the absence of a quorum.

Mr. DEMINT. Madam President, reserving the right to object, I under-

stand I have 2½ minutes left; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DEMINT. And the quorum call will be applied against that time; is that correct?

The PRESIDING OFFICER. Equally applied to the Senator 2½ minutes and the time remaining on the majority side.

Mr. DEMINT. If the Senator would agree, I don't have much time left, and if I could reserve that time. If there is no opposition, obviously, I don't need to use any additional time.

Mr. PRYOR. That is agreeable.

Mr. DEMINT. I thank the Senator.

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

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

Mr. PRYOR. Madam President, I move to table the DeMint amendment No. 43 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Louisiana (Mr. CHAMBLISS).

The PRESIDING OFFICER (Mr. TESTER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 16 Leg.]

YEAS—60

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Gillibrand	Nelson (FL)
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Pryor
Bingaman	Hutchison	Reed
Bond	Inouye	Reid
Boxer	Johnson	Rockefeller
Brown	Kaufman	Sanders
Burris	Kerry	Schumer
Byrd	Klobuchar	Shaheen
Cantwell	Kohl	Specter
Cardin	Landrieu	Stabenow
Carper	Lautenberg	Tester
Casey	Leahy	Udall (CO)
Collins	Levin	Udall (NM)
Conrad	Lieberman	Warner
Dodd	Lincoln	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden

NAYS—37

Alexander	Cochran	Graham
Barrasso	Corker	Grassley
Bennett	Cornyn	Gregg
Brownback	Crapo	Hatch
Bunning	DeMint	Inhofe
Burr	Ensign	Isakson
Coburn	Enzi	Johanns

Kyl	Murkowski	Thune
Lugar	Risch	Vitter
Martinez	Roberts	Voinovich
McCain	Sessions	Wicker
McCaskill	Shelby	
McConnell	Snowe	

NOT VOTING—2

Chambliss	Kennedy
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The motion was agreed to.

AMENDMENT NO. 45

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 45, offered by the Senator from Utah, Mr. HATCH.

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, to remind my colleagues, the Hatch amendment, No. 45, says that before a State is permitted to cover legal immigrants through CHIP and Medicaid, it must demonstrate to the HHS Secretary that 95 percent of its State children who are citizens under 200 percent of the Federal poverty level are enrolled in either the State's Medicaid Program or CHIP.

My amendment does not prohibit legal immigrant children from being covered, but it does set some of the parameters. Again, I believe our U.S. children who are citizens should be covered first. If you cover 95 percent, then you can go on and do more. Once those kids are covered, I am happy to work with my colleagues to cover legal immigrant children, but our U.S. citizen kids should be covered first. That is all I am saying, and I think it is reasonable.

Mr. President, I think this is a reasonable amendment. I am prepared to ask unanimous consent to have a voice vote on it.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, basically the amendment requires States to certify that 95 percent of their CHIP children, or Medicaid, are being paid first before the children of legal immigrants. No State meets that requirement.

I might also say the nationwide average for covering children under 200 percent of poverty is 80 percent. No State reaches 95. It is too high a standard.

More than that, we do include in this bill provisions for bonus payments to States to encourage them to cover low-income kids first. I think it would be inappropriate and unfair to make it an ironclad requirement that States must certify 95 percent. These are kids who are sick through no fault of their own. Their parents are paying taxes. They are full citizens—they are legal immigrants, but they are already incorporated into the system, being taxed, et cetera, and their kids should not be penalized.

I strongly encourage us not to adopt this amendment because no State can certify to 95 percent.

The PRESIDING OFFICER. All time has expired. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I ask unanimous consent that we withdraw the call for a rollcall vote and voice-vote this amendment.

The PRESIDING OFFICER. The roll-call vote has not been ordered.

The question is on agreeing to the amendment.

The amendment was rejected.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I have conferred with the Republican leader. This will be the last vote today. The Finance Committee is still meeting, and they expect to continue working tonight. I spoke to the chairman just a short time ago. He is going to do everything within his power to finish the markup tonight. We are going to get back tomorrow and again have no morning business. We will be back on this bill tomorrow. Everyone who has amendments to offer, get them ready.

EXECUTIVE SESSION

NOMINATION OF DANIEL K. TARULLO TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

The PRESIDING OFFICER. Under the previous order, the nomination is discharged and the Senate will proceed to executive session to consider the nomination, which the clerk will report.

The bill clerk read the nomination of Daniel K. Tarullo, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Daniel K. Tarullo, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve System. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 17 Ex.]

YEAS—96

Akaka	Boxer	Coburn
Alexander	Brown	Cochran
Barrasso	Brownback	Collins
Baucus	Burr	Conrad
Bayh	Burris	Corker
Begin	Byrd	Cornyn
Bennet	Cantwell	Crapo
Bennett	Cardin	DeMint
Bingaman	Carper	Dodd
Bond	Casey	Dorgan

Durbin	Kyl	Risch
Ensign	Landrieu	Roberts
Enzi	Lautenberg	Rockefeller
Feingold	Leahy	Sanders
Feinstein	Levin	Schumer
Gillibrand	Lieberman	Sessions
Graham	Lincoln	Shaheen
Grassley	Lugar	Shelby
Gregg	Martinez	Snowe
Hagan	McCain	Specter
Harkin	McCaskill	Stabenow
Hatch	McConnell	Tester
Hutchison	Menendez	Thune
Inhofe	Merkley	Udall (CO)
Inouye	Mikulski	Udall (NM)
Isakson	Murkowski	Vitter
Johanns	Murray	Voinovich
Johnson	Nelson (FL)	Warner
Kaufman	Nelson (NE)	Webb
Kerry	Pryor	Whitehouse
Klobuchar	Reed	Wicker
Kohl	Reid	Wyden

NAYS—1

Bunning

NOT VOTING—2

Chambliss Kennedy

The nomination was confirmed.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Under the previous order, the motion to reconsider is considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009—Continued

The PRESIDING OFFICER. The Senator from Ohio.

ECONOMIC RECOVERY

Mr. BROWN. Mr. President, the severity of this economic crisis requires the Federal Government to respond quickly and forcefully. The economic recovery proposal we are considering has two key objectives: stimulating the economy and creating jobs. Congress currently is negotiating where the funds will be spent—on infrastructure projects, on health care and safety net programs, on developing alternative energy for the 21st century economy. As we decide how to spend these tax dollars, it is imperative we consider where to spend them or, rather, on whom. These funds must create American jobs. To do that, we must ensure that Federal funds are used to buy American services and American products.

Our economy is suffering from the highest unemployment rate in more than a decade and a half. In 2008, we lost 2.6 million jobs, the largest job losses in 1 year in more than six decades. Our unemployment rate jumped to 7.2 percent. We all know that number doesn't tell the real story, the real human story. The more accurate measure of joblessness, the unemployed and the underemployed, or workers whose hours have been cut, is almost 14 percent. More than 533,000 jobs were eliminated in December. Yesterday, some of America's strongest, most prestigious

companies announced more than 55,000 job cuts in 1 day. Among them was General Motors, which announced it would cut a shift at its Lordstown plant in Mahoning County in northeast Ohio. As President Obama said:

These are not just numbers on a page. There are families and communities behind every job.

Communities such as Moraine and Chillicothe and Canton understand what happens when there is a major layoff. They don't need to hear the new job numbers. They understand it when small businesses close and diners empty out.

Manufacturing jobs keep American communities strong, and the steepest job losses are occurring in manufacturing. Nearly one in four manufacturing jobs has simply vanished since 2000, and 40,000 factories have closed in the last 10 years. Last year, manufacturing accounted for nearly a third of all lost jobs, while factory orders plummeted to record lows. Inventories are piling up because no one is buying. This leads to production cuts and then massive job losses that we will likely see more of this year. President Obama said it is likely going to get worse in 2009 before it gets better.

A loss of manufacturing is about more than jobs; it is about the loss of the Nation's middle class. I want to lay out what exactly the benefits of manufacturing are to this Nation.

Many of us represent large manufacturing workforces. All of us represent some manufacturing, some in more States than others. We all recognize or all should recognize the importance of manufacturing to our national security and to our domestic security—for families, neighborhoods, communities, for the Nation.

Let me cite the benefits of manufacturing:

No. 1, these jobs pay better on average than others.

No. 2, manufacturing jobs have a stronger multiplier effect, supporting as many as five other jobs. For instance, an auto assembly plant obviously creates other jobs—suppliers and tool and die shops and machine shops and parts manufacturers, and all that those jobs create. Manufacturers are large taxpayers supporting vital public services and schools in communities across the Nation.

No. 3, if you have a large industrial plant in a school district, that school district gets an awful lot of help in local property tax dollars from the manufacturing plant.

No. 4, American manufacturers are on the cutting edge of new technologies in the clean energy economy of tomorrow.

No. 5, if we are to end our dependence on foreign oil, we need to do more manufacturing here rather than allowing it to go offshore, especially in alternative energy.

No. 6, our national security depends on a strong defense industrial base to supply troops and protect our national interests.