

The nearby chart shows this Grand Canyon between spending and revenue, including CBO's long-term predictions. While these are obviously very coarse estimates, there's also a projection of a \$65 billion deficit in the 10th year—and "deficit neutrality in the 10th year is . . . the best proxy for what will happen in the second decade."

That's not our outlook. That's what White House budget director Peter Orszag told the House Budget Committee in June. He added that "If you're not falling off a cliff at the end of your projection window, that is your best assurance that the long-term trajectory is also stable." The House bill falls off a cliff.

And the CBO score almost surely understates this deficit chasm because CBO uses static revenue analysis—assuming that higher taxes won't change behavior. But long experience shows that higher rates rarely yield the revenues that they project.

As for the spending, when has a new entitlement ever come in under budget? True, the 2003 prescription drug benefit has, but those surprise savings derived from the private insurance design and competition that Democrats opposed and now want to kill. The better model for ObamaCare is the original estimate for Medicare spending when it was passed in 1965, and what has happened since.

That year, Congressional actuaries (CBO wasn't around then) expected Medicare to cost \$3.1 billion in 1970. In 1969, that estimate was pushed to \$5 billion, and it really came in at \$6.8 billion. House Ways and Means analysts estimated in 1967 that Medicare would cost \$12 billion in 1990. They were off by a factor of 10—actual spending was \$110 billion—even as its benefits coverage failed to keep pace with standards in the private market. Medicare spending in the first nine months of this fiscal year is \$314 billion and growing by 10%. Some of this historical error is due to 1970s-era inflation, as well as advancements in care and technology. But Democrats also clearly underestimated—or lowballed—the public's appetite for "free" health care.

ObamaCare's deficit hole will eventually have to be filled one way or another—along with Medicare's unfunded liability of some \$37 trillion. That means either reaching ever-deeper into middle-class pockets with taxes, probably with a European-style value-added tax that will depress economic growth. Or with the very restrictions on care and reimbursement that have been imposed on Medicare itself as costs exploded.

On the latter point, the 1965 Medicare statute explicitly stated that "Nothing in this title shall be construed to authorize any Federal official or employee to exercise any supervision or control over the practice of medicine or the manner in which medical services are provided." Yet now such government management of doctors and hospitals is so pervasive in Medicare that Mr. Obama can casually wonder in a recent interview with *Time* magazine how anyone could oppose the "benign changes" that he supports, such as "how the delivery system works." Oh, is that all?

Democrats will return in the fall with various budget tweaks that will claim to make ObamaCare "deficit neutral" over 10 years. But that won't begin to account for the budget abyss it will create in the decades to come.

Mr. KYL. Mr. President, I know I have talked about a lot of different issues today, but as we start this period of time when we go back home—we call it our work period back home—there are a lot of issues about which we want to talk to our constituents.

First on my list is going to be what do you think about the increased

amount of debt this country is taking on, with all of the programs we have already passed and the programs that are on the horizon, including what was referred to here as ObamaCare, but the so-called health care reform? Do you believe your health care situation is in such a dire strait that we need to take on that kind of debt, or are there more targeted ways to resolve the problems that everybody acknowledges exists, particularly with some of the costs associated with health care.

We are also going to talk about whether the American people are comfortable with the degree of government involvement, the government takeover of all of these different elements of our society, including health care, including the mortgage business, as I talked about, and picking winners and losers in subsidizing the purchase of cars now.

I know we own two of the big car companies, but it seems a little self-serving then to try to help those car companies that the government owns by picking that as the place to put \$3 billion to encourage people to buy new cars.

I know a lot of folks back home who are in other businesses who are hurting significantly. They could use this help just as much. I wonder if we took \$3 billion and spread that to some of the other industries that are also hurting, I am sure they would say: This is great; why don't you help us out?

When government gets in the business of picking winners and losers, it is a sad day for our democratic Republic. I think we need to watch this. I am going to ask my constituents what they think about that. I already know. I got an earful last Sunday in church about a couple of these different ideas. I expect I am going to continue to hear about that.

It is important that our constituents talk to us about their concerns. We work for them, not the other way around. They pay our salaries. We need to listen to them about what they have to say.

Finally, we have all these domestic issues, but I wanted to refer to Senator LIEBERMAN's comments about we cannot forget we have brave men and women halfway around the globe right now in 120-degree temperatures representing us. They are the men and women in our military services and in our intelligence services working very hard to protect us.

We have to send the signal to them that we appreciate what they do, that we are not going to criticize them for simply doing their job. I think Senator LIEBERMAN was right when he said let's not send signals to those we have instructed to help us out in this war on terror that at the end of the day we are going to second-guess what they are doing, we are going to be Monday morning quarterbacks and even potentially find them criminally liable for activity they engaged in in good faith and belief they were protecting the American people.

I am going to be very interested to see what my constituents have to say about these issues. I know my colleagues will as well. I hope when we come back from the recess that we will not only be personally refreshed from having the opportunity to visit with our families and spend a little downtime but intellectually refreshed by having heard from our bosses—our constituents—on how they want to approach these problems in the future. Maybe in September, we will be a little more enlightened about how to carry out our responsibilities.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BROWN. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HEALTH CARE REFORM

Mr. BROWN. Mr. President, I have come to the floor, much as I have every day for the last 3 weeks or so, to share letters from constituents in Ohio—from Findlay and Mansfield and Ravenna and Gallipolis and Bucyrus and Cleveland. These are letters from people who have often suffered because our health care system doesn't work for them.

We understand the health care system works for many; that many people are pleased with their health insurance. We understand—and the Chair certainly does, as a member of the Health, Education, Labor, and Pensions Committee—that we have made sure people who have insurance they are satisfied with can keep that insurance. As you know, we have built consumer protections around those health care plans that people now benefit from to make sure preexisting conditions are not banned from coverage; to stop discrimination based on gender or age; to make sure insurance companies cannot throw somebody off their rolls because they have an annual cap on the insurance. But as we throw these words around on this debate, words like "exchange" and "market exclusivity" and "gateway" and "direct negotiations" and all these terms, it is important to always bring it back to people whom we know, people who have written letters—from Eugene, OR, or from Toledo, OH—people who have written letters to us about the health insurance system. I would like to share a few of these letters today as I have for the last 2 or 3 weeks.

Heather from Lorain County, the county where I live, west of Cleveland, writes:

I am a resident of Elyria, OH, a Registered Nurse of 14 years, living with relapsing-remitting multiple sclerosis. I live at both ends of the stethoscope. I am a frontline witness to the disintegration of our health "care" system both as a caregiver and as a patient. Health care is a NON-partisan issue, but it's been all about dollars and cents, not common sense.

She is right about that. We simply have let too many people fall through the cracks. We have not relied enough on nurses like Heather, people who deliver the care directly. We have allowed our health care system in that sense to get away from us.

Mary from Jefferson County, eastern Ohio, along the Ohio River—Steubenville is the community that is the county seat in their county.

I am writing this on behalf of my brother, an insulin dependent diabetic who is a retired factory employee in Kettering, OH. He has recently been notified that he will be losing most of his pension and all of his health care.

I have contacted almost all health care insurance companies trying to get single coverage policy. Due to his diabetes, he is excluded from any coverage and completely uninsurable. His insulin alone is approximately \$8,000 a year. The reason is not that diabetes is a pre-existing condition but is a chronic condition.

My brother worked in the factory for over 30 years, paid into the program, paid his taxes. It is a true sin that these older Americans are being treated this way in our system.

Mary writes about diabetes, which is an increasing problem in this country. It is an increasing health problem that afflicts so many, not just older people like Mary's brother but younger people too, especially people diagnosed with diabetes at very young ages. Our legislation deals with that. It deals with that particularly for children, on preventive care and wellness programs dealing with childhood obesity—all of those issues.

It deals with people like Mary's brother in Kettering who suffer because of, in too many cases, a cap on coverage. If you are spending too much, according to the insurance company, one year, they do not pay any more. The rest of it comes out of pocket. Sometimes they dump you and you lose your insurance. That kind of discrimination by the insurance companies will be prohibited under our health care bill even if you have insurance you are happy with. We want you to stay in the plan if you are happy with your insurance, but we are going to build these consumer protections around it so things don't happen to you like happened to Mary's brother.

This comes from Scott in Hamilton County—that includes Cincinnati on the Ohio River in southwest Ohio.

I recently changed employers. My previous employer was not required to offer COBRA. I was not aware of this and was quite shocked. My new employer had a waiting period of 90 days before I could enroll in the employer-sponsored plan. Between the time I left my

old job and before I could enroll in a new plan, my wife found out she was pregnant. But when attempting to find new coverage, we kept being turned down due to the pregnancy being deemed a pre-existing condition. There should have been a better option. Please do what you can to support health care reform.

If I didn't live in this country and I didn't know that these things happen, I would just think they made up that story. This guy has insurance. He switches jobs. Between leaving his job and his next job, he is uninsured. His wife gets pregnant, and they can't get insurance because she has a preexisting condition. How stupid does that sound?

What is wrong with our health insurance system? It has a lot of good things, but what is wrong with the system that allows him to fall through the cracks so at best she will have a pregnancy with no difficulties, generally good pregnancy, but still that costs thousands of dollars. Imagine if she has a particularly difficult pregnancy with all kinds of expensive care for her and for their newborn baby. Imagine the tens of thousands of dollars. They will go into debt because, as Scott from Hamilton County says, health insurance was not available because of this preexisting condition—his wife got pregnant.

Dinah from Cuyahoga County, up near Cleveland, writes:

I've been a small business owner in graphics design for 17 years. We always provide our employees with the best fully-paid health care we could afford. Throughout the whole time, the cost of health care was our largest expense after salaries. Business has declined—

As it has throughout our Nation in many places—

and we have been forced to lay off employees from our once high of eight to just two of us. Now we are on the edge of having to close down unless business increases soon.

We have learned that we are in a catch-22 situation. If I lay off my last employee to stay in business, we no longer have two persons to qualify for a group and thus the group insurance will be canceled by our insurer. Getting an individual policy with reasonable coverage at age 62 is no easy trick. And we have no idea if my one employee, single and 40, will qualify either. We have no idea whether we will be accepted or will have some kind of preexisting condition we're not aware of. With two and a half years to go before Medicare, I'm pretty close to my worst fears being realized.

Fight on for the public option. Please don't give up and settle for something that just puts a band aid on this huge problem. So many people so desperately need your help.

That is what we never can forget in this body when we talk about market exclusivity and talk about the gateway and exchange and all these terms—direct negotiations. We can never forget people like Dinah from Cuyahoga County, saying, "So many people so desperately need your help." They need our help in this body. We have to pass this bill by the end of the year. She says, "Fight on for the public option." She understands that insurance companies so often play games with people such as Dinah and Scott and Heather

and some of the other people I will read letters from today.

Mr. President, that is why you, on the HELP Committee, and why I, on the HELP committee, and Senator DODD and others, why we fought for the public option. That is an option. What it will do is inject competition into the health care system, competition with insurance companies so that insurance companies—even though we are going to change the rules for insurance companies, we also know they always try to game the system. They want to insure you because you are healthy. They are not so sure they want to insure you because you might be expensive. We cannot let them do that anymore. That is why we are changing the rules. That is why we also need the public option, so the public option can compete and keep these insurance companies honest. Dinah gets that. Not all of our colleagues in this body get that. That is why it is so important to make sure this health care system improves so it works for everybody.

Ruth from Greene County, the Xenia area in the State, sort of southwest Ohio, writes:

Last year, my granddaughter Lilly was diagnosed with cystic fibrosis, a fatal genetic disorder. She requires many specialized enzymes and foods and three daily breathing treatments to keep her lungs from deteriorating. She also needs specialized care from a cystic fibrosis center and will likely be hospitalized for lung infections at some point.

Without insurance this treatment would not be possible, and with insurance companies' ability to deny coverage for preexisting conditions, what is her long-term ability to get health coverage? Currently, her parents are changing jobs. How will they get affordable health insurance for their daughter is a big question.

It appears from the letter from Ruth that her granddaughter Lilly has insurance right now and is getting good treatment and good medical care, as most Americans are at this point.

But it seems there are two things she is talking about. One is her parents have had, for whatever reason, to change jobs—Lilly's parents. What is going to happen with their insurance when their new employer and their new employer's insurance company understands they have a daughter with cystic fibrosis? And then she asks a question that is just as crucial: What happens to Lilly when she gets older? What happens to somebody who has a chronic health condition such as cystic fibrosis or anything else? When they get to be adults, what happens to them? What happens to their ability to get health care coverage?

That is why the public option is so important, why our bill is so important. The public option will compete with private insurance carriers to make sure they stay honest, that they do not dump people like Lilly, so they do not play this preexisting condition game, so they don't game the community rating system, so they don't discriminate against people because of

gender or geography or age or anything else.

The last two letters I would like to read are actually both from physicians.

Michael, from Montgomery County, the Dayton area, writes:

As a physician I see what happens to people every day when they cannot get health insurance. I see the abuses they suffer at the hands of the greedy insurance companies. I also see constant erosion in payments to doctors, hospitals, and all health care providers. The only thing that is increasing is the redtape. The redtape doesn't provide care. It takes caregivers away from patients.

Michael is a medical doctor in Montgomery County in southwest Ohio. Michael understands, because he has been victimized by it, he has been harassed by it, he has been annoyed at best by it, that he deals and his office deals with all kinds of insurance company redtape.

Mr. President, I have heard you actually talk about it in committee. You know Medicare has less than 5 percent administrative costs. The paperwork for Medicare is much less than the paperwork Michael's office has to do, dealing with hundreds and hundreds of different insurance companies. Medicare keeps its administrative costs under 5 percent. Insurance companies' administrative costs are 15, 20, sometimes even 30 percent. That is the redtape he is talking about.

Medicare is not perfect. Medicare has redtape. It needs to be streamlined every way we can do that so it is simpler and cleaner, the way we need to build the public option to be.

But we also know private insurance has huge administrative costs, huge salaries for their executives. People have come down to the floor and read what the salaries are of United Health and some of the other insurance companies—Aetna, CIGNA—the top executive salaries, often into the tens of millions of dollars each. We know they have those kinds of administrative costs. We know they have the profits they make. Fine, they should make profits, but sometimes they are excessive.

We also know they have costs for huge numbers of people in these private insurance companies who are there to deny care. When did you ever hear Medicare turn somebody down for a preexisting condition? I don't think it has ever happened. When did you ever hear Medicare say: Sorry, you are spending more than your cap; that is the end; we are not going to take care of you. The fact is, the preexisting condition, the denial of coverage because of your gender or your age or your geography, doesn't happen with Medicare. It does happen with private insurance.

Michael understands that when he writes. He talked about the greedy insurance companies. Not all of them are but some are, and some of the executives are way overpaid. We know that.

Most important, we need to cut through the redtape. That is why the public plan, competing with the private

insurance plans, will make the private plans better, and, frankly, the energy and the dynamism of the private plans probably will make the public option better too. That is the whole point of competition.

The last letter I will read comes from Ellen from Cuyahoga County, the Cleveland area.

I am a physician and a partner in a small business that offers health care benefits to its employees. For them, but most as a wife of a cancer survivor, I feel there is no more important issue than health care. We must provide affordable health care to all Americans.

We hear it from doctors, we hear it from a nurse, we hear it from patients, we hear it from family members, family members who care deeply about their family and what it has done to them.

We are about to leave here for the next month. When we come back in September, there is a deadline on negotiations in the Finance Committee. If the six—three Democratic and three Republican Senators—do not come to agreement, it is time to move forward with the Health, Education, Labor, and Pensions bill we wrote. Our bill, as you recall, is a bipartisan bill. Our bill that we passed out of the HELP Committee went through 11 days of markup, 11 days of considering amendments, debating, discussing, arguing—whatever we do when we get together. Never in my 17 years in the House of Representatives and the Senate have I seen a bill have that much attention, have that many amendments, spend that long working on it. This bill has been vetoed. We know the ins and outs of it.

We accepted 161 Republican amendments. Some of them were minor, some of them were major amendments. The Republicans did not win on some of the big issues, but the big issues were decided, in many ways, by the election. The big issues are things such as, should there be a Medicare-like plan or should we continue the privatization of Medicare, which is what Republicans want to do. There are very big differences there.

But the fact is, this bill is a bipartisan bill. It came out of committee with a strong vote. We know it will cover almost every American. We know it will bend the cost curve down so we will begin to save money. We know it will ban all kinds of insurance company gaming of the system, provide consumer protections for people who now have health insurance that they are generally satisfied with, and make sure those people do not lose their insurance because of preexisting conditions or discrimination.

We have work to do after being back in Ohio and the Chair back in Oregon for the next month. It is important we get back to work, after listening to our constituents and getting more input on these bills. It is important that we go back to work in September and pass health care legislation.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

JUSTICE SOTOMAYOR

Mr. SESSIONS. Mr. President, I had the opportunity this morning to talk with Judge Sotomayor and congratulate her on her confirmation to the Supreme Court. It is an exceedingly important position. Her nomination initiated a national discussion about the role of a judge in American society. I hope it rose to the level of debate and discussion that was worthy of such a great occasion.

She is a wonderful person. She is going to give her best effort to be a great Justice on the Court. I hope and pray she will achieve that. I reached a conclusion, as did a number of my colleagues, that her statements and expressions of judicial philosophy were such that it caused concern and gave rise to a belief that her approach to judging was part of a growing idea that judges are not bound by the law and facts but are rightly able to allow their personal views to influence their decisions.

Her testimony was different, however, from what was reflected in her speeches. I am hopeful that her testimony will be the basis by which she conducts her business on the bench.

I congratulate her. I think our discussion was at a high level. It dealt with an issue that so many of us feel very deeply about; that is, that the law must be objective, that judges must show fidelity to the law as written, even if we in Congress have not written it so well and if they would like to see it differently. That is the cornerstone of the American legal system, and I am proud of it.

I received an e-mail a few days ago from Sarah Chayes who has written a book about Afghanistan. She was an NPR reporter, stayed in Afghanistan, fell in love with the country, has learned the language and works tirelessly to improve the lives of people in that country.

She told about being in the States and meeting with the relative of an individual who tried so hard in Iraq to promote law and justice. She said this lady, her relative, said what most impressed her in America was the law. She said it was not food, it was not technology, it was not wealth that we had, it was the legal system we had. It is a beautiful, wonderful thing. It is a heritage we have received. We have not earned it. We have inherited it, and we have a responsibility to make sure we pass it on in a healthy state, to those who will follow us.

So my congratulations go to Judge Sotomayor. I know her mother and