

It's very exciting to be here at this point in our history. I think our freshman class is a big part of the forward movement in this great agenda that we have. So I thank my colleagues, and I yield the rest of my time.

#### HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. BURGESS) is recognized for 60 minutes as the designee of the minority leader.

Mr. BURGESS. I thank the Speaker for the recognition. Well, here we are, Tuesday night, Washington, D.C., 20 minutes until eight o'clock in the evening. What a day we have had here in the Capitol. Mr. Speaker, many of your constituents and my constituents probably tried to call our offices today to register how they felt about this health care bill. I know I have been encouraging people, whether they agree with me or not, whether they think I'm spot on or all wet, I have been encouraging people to call and let Congress know what you think about this massive government takeover of one-seventh of our Nation's economy. And people have responded. They have been calling.

But today they were met with either busy signals or interminable rings, because apparently the House switchboard was overwhelmed with the calls that were coming in. I will tell you I was concerned because I called my number for my office and got a busy signal, and yet walking around in the office, certainly not all of the phones were in use. So apparently this problem that Americans have encountered all afternoon has been one that has at its root and its cause in the antiquated House switchboard. I do hope the Speaker, I hope the Architect of the Capitol, and the Capitol business manager, will take that into account, because clearly, clearly we need to be able to hear from our constituents when we have such important legislation coming up to the floor.

So where are we as we work through this? Are we in the last throes? Are we still in for a long, hard slog? We have heard terms like the final push, the final stretch, the 5-yard line. President Obama, Speaker PELOSI, and Majority Leader REID have ignored calls by certainly every Republican, by many Democrats, many independent Americans, and just the American people in general, to really put the breaks on this current bill and to look at some of those things that people really want to see done, and do those.

We don't have a lot of credibility right now in the United States Congress. Recent polls I think today put it around 17 percent. No one trusts us with a 1,000-page bill that we passed out of committee last July 31. They darn sure didn't trust us with a 2,000-page bill that the Speaker's office came up with in October and that we

passed in this House in early November. They darn sure didn't trust the 2,700-page bill that passed in the Senate on Christmas Eve. And they sure don't trust what they see as a very difficult, tortured process that is now working its way through the House. And the reason they're having to resort to such legislative hijinks is because fundamentally this is a flawed bill. This is a bad bill. And it didn't have to be this way.

Look, most of us went home during August. We did our summer town halls, as we always do. We were all, I think, somewhat astonished at the outpouring of the American people just showing up on a hot Saturday morning in Texas to stand in a parking lot and listen to their Representative and question their Representative about what they saw happening up on Capitol Hill. To be sure, cap-and-trade was in the news those days; to be sure, the stimulus bill was in the news those days. But they were most concerned about this massive takeover of health care. Most of the questions dealt with that. And it wasn't like they didn't want to see anything done. But they didn't trust us to overhaul the entire system with one massive bill.

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Sure, they want some help with pre-existing conditions. Yeah, they'd like to see people be able to buy across State lines and bring some cost down. Maybe some liability reform would be nice. Boy, wouldn't it be great if COBRA was a little more flexible. These were the things we heard. When we came back in September, I thought, okay, rewind, pause, slow this thing down, and let's look at it. Maybe let's work together. Maybe Republicans and Democrats can kind of come to some common ground because every Democrat was hearing the same stuff I was hearing. And I know that because I saw it on the evening news. I saw the YouTube clips. Their town halls in Florida, their town halls in Arkansas, their town halls in Michigan were exactly the same as the town halls that were going on in north Texas. There was no difference.

But instead in September, we come to a joint session of the House and the Senate. The President came and addressed us, and it was nothing of the sort that we're going to rework this process. We weren't going to check the weather. We're going to fly anyway, full speed ahead. Let's get this thing done. I think I heard it said again tonight in the discussion that just preceded us, A crisis is a terrible thing to waste; so let's take this economic crisis that we're in and force this health care bill on the American people. They don't know what's good for them, but we do; and this is what they're going to get.

It is a terrible bill. It's a flawed bill. It's a very tortured process. I'm going to do everything in my power to stop it, but it may become law. And if it

does, we need to know what's in it, and we need to know then what our next steps are to deal with those bad provisions that are contained within the bill.

I've been joined tonight on the floor by a gentleman that I've come to admire during my time in Congress. He has been a leader on this issue and on the committee in which we jointly serve, Energy and Commerce, and here on the House floor. JOHN, did you have some thoughts you wanted to share with us tonight?

Mr. SHADEGG. I do. I want to thank the gentleman for conducting this special hour, and I want to talk about a number of issues that you have already referenced. Number one, health care reform: I certainly think we need health care reform. I know you do. I know that we believe that while the current system provides very high-quality health care, it often denies people access. But I want to talk a little bit about what's in the bill as well. The gentleman talked about this massive takeover.

One of the things that stuns me more than anything else—and I know that you find this confusing—is that the proponents of this bill say that Republicans are defending the health insurance companies in America. Really? Really? This bill says that we're going to enact a mandate, an individual mandate compelling every American to buy health insurance from the health insurance companies that are selling them health insurance now. Huh? I'm sorry, I find that a little confusing.

There is an individual mandate that says if this bill passes and becomes law, as the Speaker would like to do this week, you—every single American, every American listening tonight—must go out and buy health insurance from the very health insurance companies that are ripping us off right now. Why? Why in God's name would we want to force Americans to buy health insurance from the same health insurance companies that are ripping us off right now?

This is a massive subsidy to those health insurance companies. It's a law. It will be the law of the land that says, you must, whether you want to or not, buy a government-approved health insurance plan from one of the companies selling health insurance right now. If they were doing a great job of selling health insurance right now, wouldn't the cost be affordable? Wouldn't they be holding down cost? Wouldn't they be giving us good service? Wouldn't they not be cheating us? I've got to tell you, I don't know any Republican who thinks that it's a great idea to compel people to buy health insurance from the same insurance companies that are selling us health insurance now. And yet that's what the individual mandate in this bill does.

I guess they like it because it has been applied in Massachusetts. In Massachusetts they passed a mandate like this. They said that every single person

in Massachusetts, by gosh, we're going to force you to buy a health insurance plan from some health insurance plan offered from a health insurance company in Massachusetts, and that will fix the problem. Did it fix the problem, Doc?

Mr. BURGESS. Not entirely. And what they found was, since you have to buy the insurance, the cost may have gone up a little bit.

Mr. SHADEGG. Oh, the cost went up. Wait, the cost went up? They have forced everybody in Massachusetts, like this bill would do, to buy a health insurance plan on the premise that the cost would go down. But in Massachusetts where they did it, the cost went up.

Mr. BURGESS. Up. Because you've got to buy it, or you get a fine.

Mr. SHADEGG. Ah, so it's Republicans who oppose this bill that are the pals of the health insurance industry? I don't think so. And you're telling me that in the one State where we've already tried this, a mandate that you must buy health insurance, costs did not go down, but costs went up. The cost of health insurance for the people in Massachusetts from before they enacted the mandate to after they enacted the mandate went up?

Mr. BURGESS. That's my understanding from the reports that have been done by Heritage and other groups. But interestingly, if Massachusetts wants to enact a mandate, they are a State. And if their residents say, Okay, we are happy with you, Governor. We are happy with you, State legislator or State senator, for enacting this mandate and they reelect them to office, that's all well and good. But here we're talking about the 50 States and various territories, a mandate applied across the board. This has never been done in this country before because there's a document called the Constitution that says we shouldn't be doing this.

Mr. SHADEGG. Wait, the gentleman's telling me that never before in Federal law have we ordered people to buy a particular product, that we don't do that in Federal law as a routine matter?

Mr. BURGESS. Just as a coincident fact for being born and living in the United States, no.

Mr. SHADEGG. No, we don't force people to do that. I guess we do say that if you want to drive in some places, you have to buy auto insurance to insure against damage to somebody else. Right?

Mr. BURGESS. Correct. And still, that is a State mandate.

Mr. SHADEGG. That's not a Federal mandate?

Mr. BURGESS. Correct. And there are some States who don't have the mandate.

Mr. SHADEGG. So this would be the first Federal mandate saying you must buy a product because the Federal Government tells you you must buy a product?

Mr. BURGESS. That's my understanding. It is such a good idea, as you correctly pointed out in your very graphic demonstration. The strong arm of enforcement here is the already existing Federal agency that collects our income taxes every year.

Mr. SHADEGG. You are referring to the sign I have next to me.

Mr. BURGESS. Yes.

Mr. SHADEGG. That's the IRS. The IRS is going to force you and me to buy health insurance from an approved health insurance company, federally approved health insurance. Maybe you can answer the question that is posited on this graphic: Why does the Democrats' bill subsidize health insurance companies? I don't quite get that. Why is it that Democrats are so adamant that we subsidize America's health insurance companies, those companies that are already ripping us off, overcharging us, undercompensating, don't pay our claims when we submit them, make the doctors turn in 46 copies of every form, then kick it back, then kick it back again? Can you tell me why the Democrats want to subsidize America's health insurance plans by ordering every American to buy one of those plans? Because I don't get it.

Mr. BURGESS. If the gentleman will recall in May and June of this year, six groups met down at the White House. It was a great photo-op. My AMA was there. The Hospital Association was there; PhRMA showed up; AdvaMed, the people who make medical devices; AHIP, America's Health Insurance Plans; and the Service Employees International Union all gathered at the White House. The President came out after this meeting and said that these groups have offered up \$2 trillion in savings to the American people in order to get this health care bill done. So I don't know. I wasn't there. I can't get information on these meetings.

Mr. SHADEGG. Wait, wait, wait. Are you telling me this is a deal? You're telling me these health insurance companies went into the White House and struck a deal, and the deal says, If you'll pass a bill forcing everyone in America to buy our product, we, the health insurance industry, will support your bill. That's a pretty good deal. Can I take, like, maybe some other company, a lumber company or an auto company, into the White House and say, Hey, if you'll strike a deal, we'll support some bill you want. You just have to force every American to buy our product. Right? Because, what the heck, let's strike a deal.

It seems to me the health insurance companies must have very good lobbyists closed tight, very closely to the Democrat Party. Because if I remember correctly, the health insurance industry wanted two things. They wanted a mandate. They wanted you and me to be forced to buy government-approved health insurance from these health insurance companies and to have the IRS enforce it. They wanted it. They got it. They did not want a so-called public

plan to compete with those health insurance companies. The health plans said, No, no, no. Competition, no, no, no. We health insurance plans don't want to have to compete. So we don't want to compete with a public plan. We don't want to have to compete across State lines. We don't want to have to compete for the business of individuals. We don't like that thing about competition.

As I understand it, those health insurance plans get out of this bill a mandate that you and I have to buy their plan, and there is no public plan to compete with them. That's good lobbying, I guess. If the Democrats will carry your water and say, We're going to enact a law that says that every American must buy health insurance from these health insurance plans and, oh, by the way, those health insurance plans don't have to face any competition.

They don't have to compete with a public plan. They don't have to compete across State lines. They don't have to even compete for your business and my business because right now, the Tax Code says that if we get it from our employer, it's tax free; but if you and I want to go out and buy it alone, if we made poor United or poor Aetna have to compete with each other for Dr. BURGESS' business or for JOHN SHADEGG's business, oh, they wouldn't like that. That might drive down costs. That might drive their profits down. That might drive down profits or the salary of their executives.

Well, they didn't want that. And in the Democrats' bill, you know what, they don't have to. There's no competition across State lines. There's no competition under the Tax Code letting you and I buy health insurance on the same tax-free basis that our bosses can buy at the companies. Boy, I'll tell you, those health insurance plans got good lobbyists in the White House. And that was a meeting, that was a deal that was struck down at the White House?

Mr. BURGESS. Well, we don't know because the White House refuses to provide us with any information, even though they've been asked nicely. They were asked more forcefully with the resolution of inquiry in our committee. Chairman WAXMAN and Ranking Member BARTON did send a correspondence down to the White House asking for that information to be supplied to our committee. To date, what we've gotten back is a series of press releases and reprints of pages off of Web sites, but no real information.

It would be fascinating to know if it's part of that \$2 trillion deal: okay, you're going to get a mandate. Maybe we'll leave out the public option. But, oh, by the way, we're going to trash you every day during this process, so get ready for the next year and a half. We will vilify your industry six ways to Sunday because they certainly have done a good job of doing that.

The gentleman points out an excellent point: if an individual is able to

buy a policy with the same breaks that a company gets, and that individual is able to keep that insurance over time, a longitudinal relationship with a health insurance company, what a novel concept. I've had the same car insurance since I was 18 years old. I can't tell you how many different health plans I've had because when I was in business for myself, I was always trying to find a better deal because that was one of the number one line-item expenses on my budget every year, providing insurance for my employees. So you were always looking to see if there wasn't a better deal somewhere.

And as a consequence, I frequently changed health insurances until I discovered what was then the medical savings account and now is the health savings account.

So kind of through the back door, I have now developed a longitudinal relationship with an insurance company. They send me emails, and they ask me to do certain things to keep myself healthy, and it works well between us. Why we didn't embrace that sort of model going into this, I just, frankly, don't understand.

Mr. SHADEGG. The gentleman raises one of the things that makes me so upset in this debate. And quite frankly, as you've pointed out, I've worked on health care reform since 1995. It seems to me morally indefensible, morally indefensible to say to the American people, If you work for a big, big, big employer—like you and I do, the Federal Government—or like we'll say, General Motors or Intel or Motorola or AT&T or any of those big employers, you work for a big employer, you're a lucky guy or a lucky gal because your health insurance is tax free. Your employer buys the health insurance and writes off the cost of buying that health insurance. Your employer then gives that health insurance coverage to you, and it's not income to you. So the tax on—we'll say a \$5,000 insurance policy—zero, zip, zero, nothing because you were lucky enough to go to work for a big employer.

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But the law in America—and I think this is what is morally indefensible. And the law in America, even after this bill passes, says to the little guy, to the least among us, to those who are just barely getting by, to that person who works for, we'll say, a small garage or maybe, in my State of Arizona, a small lawn service company—

Mr. BURGESS. Or a doctor's office.

Mr. SHADEGG. Or maybe even a small doctor's office. If their employer doesn't give them employer-paid health care coverage, here's what we do the little guy. Here's what we do to the least among us. We say, Oh, you really ought to be insured, but we're going to smack you down. We're going to make you pay income tax first before you buy that health insurance; that is to say, we're going to punish you if you decide to spend your money on health insurance.

So the \$5,000 health insurance policy that this guy over here got from his employer that cost him zero in taxes, maybe it cost him or his employer \$5,000, that plan for the little guy who doesn't work from an employer that provides health care coverage, that plan costs \$5,000, we'll say, plus another third, or another, close to a third, we'll say another 15 or \$1,800. That plan costs the little guy \$6,800, because he has to go out and earn the \$5,000, then he has to go out and earn \$1,800 in income taxes on top of that and spend the total \$6,800—\$5,000 on insurance, \$1,800 on income tax—to get the same policy that the guy that worked for the big employer got for free.

How can we morally justify that in this Nation? How can we say that it is right to treat those people lucky enough to work for the Federal Government or a big employer, Intel, Motorola, you name it, UPS, you get essentially free health care paid for by your employer and not taxed to your employer or you, but this little guy who works, or woman who works for a small day care company or who works for a small sewing shop, she gets no health care for free, and she has to pay income tax on her income before she even gets to go buy a health insurance policy? How can that be justified, and why isn't that fixed in this bill?

Mr. BURGESS. Great point. And another point that is so often missed in this discussion, let's take the example of the National Football League. You've got the Arizona Cardinals; I've got the Dallas Cowboys. A player who is lucky enough to be traded from Arizona to Dallas—I'm thinking it's an upgrade—their health insurance goes with them. If they had a knee injury in Arizona, they're covered for that knee injury day one in Dallas on the new team.

But if the fan who wants to follow their favorite player moves from Arizona to Dallas, they cannot take that insurance policy with them, necessarily, across State lines. And, oh, by the way, that new policy you're buying in Texas, that knee injury may be excluded because, after all, it was a pre-existing condition. We will not apply the same degree of portability for the little guy that we do for the person who's covered under the large multi-State plans, the ERISA plans that the multi-State corporations can provide for their employees.

Make no mistake. I think that is wonderful that the large employers do that, and I don't think there is anyone among us who would want to see that system changed. But you are correct. We should provide the same breaks across the board.

Mr. SHADEGG. Going back to my board here, why don't Democrats want to force United to have to compete with Aetna for the business of that little guy so that he or she can buy health insurance, tax-free, like Intel can or Motorola can or the Federal Government can?

Why is it that America's politicians, about to pass this bill perhaps as early as this weekend, don't want to force those health insurance companies to compete? What's wrong with competition?

You mentioned auto insurance. I turn on the TV at night and I see TV commercials for every single auto insurance company I can imagine. I see one for GEICO. They've got their little gecko. I see Progressive. I see Allstate. I see State Farm. I see Farmers. I see all these insurance companies. They're all pounding me with their ads, and every ad says, Come buy your auto insurance from our company, and we will charge you less and give you better service.

And yet, there's not a single ad like that I've ever seen on TV where Aetna or United or any of those health insurance companies who, by the way, don't want competition from a public plan but do want an individual mandate compelling us to buy their product, I never see them advertise to me and say, Hey, John, come buy our health insurance policy, and we'll charge you less and give you better service. Could that be because they don't have to compete for our business? Because under the Tax Code that we're not fixing in this bill, you and I can't afford to buy health insurance directly from them, so they don't have to compete. They're protected from competition. They just want an individual mandate. Since they don't have to compete with each other, they complain that not enough people buy their policies. I think it's because their policies are too expensive. Since they don't have to compete, now they need a mandate to force us to buy their policies.

Why don't they have to compete like the auto insurance companies do?

Mr. BURGESS. Well, of course, the life insurance business, the premiums for life insurance plummeted with the introduction of the Internet with these companies that would advertise and then sell their policies on the Internet.

Mr. SHADEGG. So competition brought down the cost of that kind of insurance.

Mr. BURGESS. Yes. And the power of the Internet could apply to health insurance as well. But, as you know, there is some difficulty selling in the individual market across State lines, and therein is where the regulatory part of what we—the regulatory environment that we set here in Congress that we're not fixing in this bill, as you point out.

Mr. SHADEGG. Not fixing in this bill?

Mr. BURGESS. Not, not fixing in this bill, that that will continue to exist.

There are sites you can go to. You can go to Google and type in "health savings account" and get a variety of plans that will come up. And I encourage people who are looking for individual insurance, that is a reasonable thing to do. Yes, you have to pay with after-tax dollars. Some of those policies can be quite affordable if you're

willing to accept the fact that it will be a high deductible type of policy.

But, realistically, when you look at health care expenses—and I'm a physician. I've watched people spend their money in health care for years. Some expenses are so small that they're actually financed out of cash flow: aspirin and Band-Aids. Some expenses are predictable but larger: braces, having a baby, maybe arthroscopy on that knee injury. Those could be saved for or borrowed for if we allowed the correct flexibility within the health savings account, for example. And then there are the "Boy, I hope that never happens to me" events: the leukemia, the heart attack. Those are the ones where this catastrophic insurance really is a godsend when people have that.

But, again, we did nothing. We had—we both sit in the committee that deals with this. Did we have a hearing on how to provide more flexibility, more competition with the insurance market? No. It was, if you want everyone covered, it is an individual mandate. That really was the only offering. We never had a hearing to ask the question: Is there a way to cover people with preexisting conditions without an individual mandate? We never asked that question, so it's not surprising that we don't know the answer to that.

Mr. SHADEGG. You know, it stuns me that you just said that, under current law in America, if you work for an employer who gives you health care through your employment, it's tax free. There's no income tax paid on it by your employer, no tax paid on it by you when you receive it. But you can go on the Internet and you can buy health insurance on your own, but you've got to buy it with after-tax dollars, making it a third more expensive. Isn't it shocking?

Then, or more accurately, not to be cynical about it, isn't it pretty logical then that the health insurance companies don't compete? They don't care about our individual business because they know you and I can't afford to buy with after-tax dollars what we can get from our employer for free.

Tell me, I guess I just do not understand why we wouldn't want to fix the Tax Code so that every single American could buy their health insurance tax-free just like their employer, so they could hire it and fire it and hold it accountable.

The gentleman mentioned preexisting conditions and the Commerce Committee. I think the gentleman knows full well that, in 2006, we passed legislation through that Commerce Committee which dealt with the problem of preexisting conditions. We, as Republicans, in 2006, said, You know what? No one in America should go uninsured or go without care because they don't—because they have a preexisting condition. So we passed legislation encouraging all 50 States to create a State high-risk pool. Under a State high-risk pool, the State would be required to accept and insure anyone that had a preexisting condition.

I happen to have an older sister who is a breast cancer survivor. She's now lived 20 years beyond her breast cancer. She has a preexisting condition. If Arizona had taken advantage of that legislation, the State would have created a high-risk pool and she could have, if she was denied coverage, or if she was told her premium would cost too much, she could have applied to the State high-risk pool. She would have been entitled to be admitted to the State high-risk pool. She could not have been charged more than 110 percent or 120 percent of the cost of health insurance for a healthy person. But all of her care would have been paid for, and the extra cost of her care, as a member of that State high-risk pool, would have been shared; that is, would have been spread, the extra cost would have been spread amongst every single person in the State of Arizona who purchased health insurance, or would have been spread over the State tax base and subsidized by State revenues.

That legislation passed the Commerce Committee, passed the floor of this House by voice vote, passed the United States Senate by unanimous consent, and was signed into law, and is the law today. It didn't force the States to create high-risk pools, but 33 States have.

Now, we can improve upon that. I'd like to make them mandatory. But we've already dealt, or we can deal with preexisting conditions without a mandate, an individual mandate compelling people to buy health insurance from the same health insurance companies that are already doing a lousy job of offering us health insurance. And yet, when the President of the United States—this is very important. When the President of the United States held his health care summit—and I note you didn't get to go and I didn't get to go. But at the health care summit, the President misdescribed, and so did Secretary Sebelius, a high-risk pool. Both of them said, if you put all the sick people in and give them no help, of course their premiums are going to go up. But no State high-risk pool in America puts the sick people in and says to them, Now pay your own premiums.

What high-risk pools do is they put in the sick people; they guarantee them coverage; they cover their preexisting conditions, and then they spread the extra cost amongst all the taxpayers or all the people who buy health insurance in that State. And the reason people are willing to do that is because, but for the grace of God, you and I don't know that tomorrow we won't need to be in that high-risk pool. And I know you've dealt with high-risk pools.

Mr. BURGESS. That's correct. Thirty-four States do have the high-risk pools. NATHAN DEAL, the ranking member on our Health Subcommittee, and I tried to put some further refinements out there this year during the health care debate.

I don't like mandates. I know we had that discussion in committee today. I don't like mandates. So what if we allowed States either a high-risk pool or an option for reinsurance, provided some Federal subsidy to the State. They don't have to take it, but if they do take it, then whatever they decide they want to do, they need to then set up that high-risk pool or that reinsurance for that set of business that is otherwise likely to go without insurance coverage. Because we all know, folks our age, employer-sponsored insurance, we're in a recession. You lose your job, you have the heart attack, you didn't keep up with the COBRA payments, boom, you're in that category and now there's nothing you can do to extract yourself.

And the only option we were given was an individual mandate, or let the government take everything under their control.

Mr. SHADEGG. Federal legislation already passed in 2006 offered all 50 States some Federal money to help set up the State high-risk pool to care for those people with preexisting conditions and offered Federal money to subsidize or to underwrite the cost of those high-risk pools.

The reality is, every Republican plan, every Democrat plan deals with preexisting conditions because it's something that we, as a society, have already decided that we should do. Every single one of us knows that any moment we could be struck with a heart condition or diabetes or, like my oldest sister, breast cancer. We might be in the position and we oppose the, even, concept of someone being denied care because of a preexisting condition.

But I don't think the answer is a mandate. You said you don't like mandates. Okay. Some people may like mandates. I guess the issue is do they work. And of course the answer is, in Massachusetts, they worked to provide coverage, but the cost of care goes up.

Mr. BURGESS. Well, they may not be constitutional at our level. And the other thing to remember about a mandate, for a mandate to work, you have to know that it's in existence, and you have to know what the penalty is, and the penalty has to be pretty stiff.

You alluded to the IRS already. The IRS has a mandate on every one of us that we'll pay Federal income taxes. Every single one of us knows, we may not know exactly what bad thing happens, but we know it's bad, and most of us know we don't want it to happen to us.

So what is the compliance rate with the IRS in filing tax returns? Well, it's about 85 percent. What do we have as uninsured in this country right now? About 15 percent. How much more are we going to get coverage if we give up that much freedom by allowing us, us, Congress, to set a mandate as a condition for living in the United States of America? How much more coverage are we going to get?

I mean, the point is arguable, but just at first glance, it might not be that much.

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Now, on the issue of the preexisting conditions bill, I know when NATHAN DEAL and I looked into this and the Congressional Budget Office scored and said what would it require in the additional Federal subsidy to make these things really work for people, the Congressional Budget Office came back with a score of \$20 billion over 10 years. Real money to be sure, but at the same time it is nowhere near the \$1 or \$2 trillion that is on the table today if the House takes up and passes this Senate bill that they passed on Christmas Eve.

I do have to make one point about the public option. The Senate bill does not have a public option per se, but there is language in the Senate bill that allows the Office of Personnel Management to oversee the exchanges and guarantee that there is one for-profit and one not-for-profit insurance company available in every exchange. If an exchange does not have an insurance product available, OPM will set up either a for-profit or a not-for-profit in that exchange.

Well, suddenly you are going down the road of a public option because what is the Office of Personnel Management? Well, it is a Federal agency. It is not used to doing that much work, because they oversee what goes on in the Federal Employee Health Benefit Plan, but now they are going to be tasked with this vast new set of powers, and it's anyone's guess how that will actually work out.

Mr. SHADEGG. The gentleman started by commenting about the shutting down of the switchboards and whether or not individual citizens could get through to their Member of Congress today and express their feelings, and I would suggest right now maybe their intensely felt feelings in opposition to or in support of this bill. It seems to me that the American people, who are frustrated by that process, maybe ought to think about what organizations or groups they are a member of that might be able to get through.

I am a little concerned that individual Members of this body maybe aren't taking phone calls right now, maybe aren't reading the faxes or the emails they are getting right now. But everybody who sits on this floor listens to the big organizations in their district. They listen to the Chamber of Commerce in their district. They listen to the farm bureau in their district. They listen to the cattle growers in their district. They might listen to the homebuilders, who by the way under the Senate bill are singled out for particularly mean or unfair treatment, high taxes, in this bill. They might listen to the contractors association.

It seems to me that anybody who wants to make their voice heard and is a member of any kind of a professional association or a political association

that has contact with Members of Congress, if you can't get through to your Member of Congress, maybe you ought to call the local Chamber of Commerce and say, hey, I read where Congressman Smith or Congresswoman Jones is going to vote "yes" or "no". That is not what I want. You supported that, Congressman. Why don't you call him or call her and say, hey, I want a "yes" vote or I want a "no" vote. Because I will bet those Members of Congress will take calls from, for example, the local Chamber of Commerce or the local farm bureau or the local cattle growers association or some other organization in their congressional district that has spoken to them in the past, maybe supported them in the past. It seems to me that now is the time that you can use those organizations to reach out and talk about some of the issues in this bill.

You and I haven't talked so far tonight about some of the procedures. We haven't talked about the Slaughter solution, under which it appears the majority is going to push this bill through and try to say that they are really not voting for the Senate bill, or, for that matter, some of the special deals in the Senate bill. I find it interesting, yesterday apparently Speaker PELOSI said, quote, "Nobody wants to vote for the Senate bill." She actually held a meeting with the press and said, quote, "Nobody wants to vote for the Senate bill." I guess that is why they have come up with the Slaughter solution.

Let me ask you this question. Doesn't the Constitution say that for the Senate bill to pass the House, Members of the House have to actually vote for it or vote on it? Don't they have to pass that bill?

Mr. BURGESS. Certainly that is my understanding. And we both have to pass the same bill.

Mr. SHADEGG. The exact same bill.

Mr. BURGESS. The exact same bill. We learned that in December of 2005. The Deficit Reduction Act had one word different between the House and Senate bills, and the whole thing was held up.

Mr. SHADEGG. Because of one word difference? One word difference. The Senate has already passed the Senate bill, the House has to pass that exact bill word for word. It can't have one word missing?

Mr. BURGESS. Actually, that is a House bill that the Senate passed. So we would simply have to concur with the Senate amendment, and that would be the identical bill. But in this case the Slaughter rule would say we don't even have to bring that bill to the floor, we just deem it—Deem me up, Scotty—we just deem it as passed and then go on to the reconciliation process to try to fix some of the problems with the bill. No guarantee that they will be fixed.

Mr. SHADEGG. I kind of think the American people are fairly bright. I think they see through this. If you are deeming a bill passed in a rule, aren't

you actually passing that bill and aren't you voting for that bill? And isn't this just a trick or a scheme to get around the requirement that Members actually vote for the Senate bill? I guess Ms. PELOSI says, this is a quote, it is right here, "Nobody wants to vote for the Senate bill." But when they vote for a rule that says it's deemed passed, aren't they voting for the Senate bill?

Mr. BURGESS. There is no question that they are. You are right, the American people can see through that. It's an elaborate charade. It will provide no protection.

Mr. SHADEGG. An elaborate charade. Trickery. If the American people think we are engaged in trickery, why not engage in trickery.

Mr. BURGESS. But, and I am sure the gentleman feels the same way, I would not want to stand in front of the 2,000 people on a hot August morning in a town hall in Denton, Texas, and say, you know what, I never voted for that bill. I voted for the rule that deemed the bill.

Mr. SHADEGG. There we go. So the reason you wouldn't want to stand on the floor and vote for that Senate bill is not just because of the policy in it, it is because that bill will contain the Cornhusker Kickback, right?

Mr. BURGESS. Correct.

Mr. SHADEGG. It will contain the Louisiana Purchase.

Mr. BURGESS. And Gator Aid.

Mr. SHADEGG. Right. It will contain Gator Aid. It apparently contains \$100 million for a local hospital in Connecticut that CHRIS DODD got in. It contains \$1.1 billion for Medicaid in Vermont and Massachusetts. I guess not Arizona or Texas. Our States didn't get that deal, right? No, just those States got the deals because DODD or SANDERS and KERRY got them in, right? It contains, I like this one, \$1 billion that Senator BOB MENENDEZ got in for New Jersey drug companies. Pretty good deal. I am not sure I would want to vote for that. My constituents might say, well, Congressman, why didn't you get a billion dollars for some companies in Arizona?

It contains \$1 billion for MENENDEZ. We are talking serious money when you go to JOHN KERRY and DEBBIE STABENOW. They got in \$5 billion for union health care plans in Massachusetts and Michigan. You already talked about the provision, the Florida Gator Aid, I guess, Medicare Advantage. I will tell you this is one that my constituents find offensive. Arizona has lots of people on Medicare Advantage. Apparently Senator BILL NELSON of Florida got in a provision saying Medicare Advantage won't be cut in Florida. I don't know how I go home and explain to my Arizona colleagues that it will be cut in Arizona. But I really don't know, since I am going to vote against this bill, how my Arizona colleagues go home—by the way, the press reported that the President wanted some of these special deals taken out.

But AP reported over the weekend that these Senators don't want those special deals taken out.

I think I agree with NANCY PELOSI. She said nobody wants to vote for the Senate bill because of all this junk, all of these secret special deals. So somehow they are going to not vote for it but they are still going to pass it? How do you do that under the Constitution? Maybe our colleague from Texas can tell us how you can pass something without voting on it.

I guess Newt said it today, there was a point in time when Members of Congress didn't read the bills that they passed. Now they are not going to vote on the bills that they pass. So what do we need to be here for?

Mr. BURGESS. I would just go back, too, to that instance with the Deficit Reduction Act, where a small difference in the House- and Senate-passed bills led to a court challenge, and we came back in January. We left on December 21st or whatever day it was when we passed that bill out of the House, it went over to the Senate, there was a problem, they couldn't fix it under unanimous consent because of an objection, and we had to repass the bill in January.

The reason I know this is because there was one of those doc fixes in that bill. And the doc fix did not go into effect December 31 and every doctor who saw Medicare patients across the country took a 6 percent ding in their Medicare reimbursement rates because we had not passed the bill by January 1.

Now, Dr. McClellan, Mark McClellan, to his credit, who at the time was Director of the Center for Medicare and Medicaid Services, came back and said, you don't have to refile those claims, we will take care of them if Congress passes the bill within a month or two of coming back, which we did. So they went back and reimbursed. But a terribly, terribly complicated process. All of it was brought up because one or two words different in the bills, because the Constitution says we shall pass the same bill and then it goes down to the President for signature.

Mr. SHADEGG. I am trying to understand this. So if the Medicare Advantage participants in Arizona who are having their Medicare Advantage cut, and the Medicare Advantage participants in Florida who are not, under the Gator Aid that Senator BILL NELSON cut, that special deal, having their Medicare Advantage cut, if the House only deems the bill passed, can they sue and can they win? Or will the courts say, well, no, no, no, your Congressman may have said he didn't vote for the bill, he just deemed it passed, but trust me, we, the courts say he did vote for the bill. And so Arizona taxpayers on Medicare Advantage lose out, Florida taxpayers because of BILL NELSON and the special deal he cut currently in the Senate bill, which you say can't have a word changed when it comes here, they win out. Pretty good deal.

By the way, I look at some of these other deals, there is special funding for coal miners in Montana. There is just provision after provision. In North Dakota there are special provisions providing higher Medicare payments there. There are special provisions for Hawaii that apparently the two Hawaii Senators got in. There are special provisions for longshoremen in Oregon. You know, this thing looks to me like it is chockablock full of special deals for special Members, special Senators who say, well, you know, I want a special deal or I won't vote for it. No wonder Ms. PELOSI says, and I quote, "Nobody wants to vote for the Senate bill." But doesn't the Constitution say they either got to vote for it or it don't pass?

Mr. BURGESS. So we have two problems. The Constitution says we have to vote on the bill. We say the mandates may be extraconstitutional in their scope. And then the whole question of equal protection under the law. We have a constitutional scholar with us, so we turn to the gentleman from Texas, the judge from east Texas, for perhaps his rendition of this complicated process that faces us.

Mr. GOHMERT. Well, clearly the majority leadership thinks that the American people are so stupid that if you have a rule that says, you know what, if you vote for the rule, then the bill automatically is deemed passed. I just don't know anybody in the American public that can't figure out when you voted for the rule, I don't care what you say, you voted to pass the bill.

As far as it passing constitutional muster, who knows anymore with this Court. But I do know, as the gentlemen, both of you have been talking about the deals and Medicare Advantage, and I have got the Senate bill here, this lovely thing, and the truth is the only people that ought to pass this bill are people that eat it. A little digestive humor there. If you eat it, then yes, you should pass it. But otherwise this bill should not be passed.

But if you look at page 904 of part one of two parts of the Senate health care bill, and you wonder, gee, I wonder why AARP came out a couple weeks ago and said, oh, yes, we like the proposal, we are all on board. Well, you look at the Senate bill, it says that nothing in this section shall be construed as requiring the Secretary to accept every bid submitted by a Medicare Advantage organization. And so also the Secretary may deny a bid submitted by a Medicare Advantage organization for a Medicare Advantage plan if it proposes significant increases. But the bottom line here is the Secretary doesn't have to accept a bid.

And what is the consequence of saying we are not going to allow any more Medicare Advantage bids, we are just going to cut that out? Do you know what retirement organization is in the business of selling a kind of supplemental insurance?

Mr. SHADEGG. Wait. Wait. Let me guess. Could it be AARP?

Mr. GOHMERT. Well, it seems like maybe they do sell some supplemental medical insurance. So by golly—

Mr. SHADEGG. Maybe they got a better deal out of this.

Mr. GOHMERT. Maybe 904 is one of several reasons AARP said, you know what, this could be all right. We could get millions and millions of dollars in new insurance sales.

□ 2030

But did you see that the pharmaceutical industry says they like this bill, they are okay? And I read a headline today that the pharmaceutical industry was going to spend millions trying to get people to vote for it.

Mr. SHADEGG. So AARP likes it and PhRMA, which are big drug companies, like it. All of the big insurance companies like it because you're mandated to buy their product. And there is no public option competing with them, and they don't have to compete across State lines. Looks to me like all of the big guys really like this bill. They like the fact that they are getting lots out of it. What does Joe Six-Pack get?

Let me make a point. I put up a quote here from Speaker PELOSI. She said it on March 9. "But we have to pass the bill so that you can find out what is in it, away from the fog of the controversy." Wow. Pretty stunning quote. Maybe those are things she doesn't want you to find out until after we pass it.

I know the gentleman has a point to make. I just want to point out. Talking about deals in the bill and special deals for health insurance companies. According to The Boston Globe of December 22, 2009, the Senate bill waives from any annual fee on health insurance companies certain additional fees, and this provision exempts two insurance companies, Blue Shield-Blue Cross of Nebraska and Blue Cross-Blue Shield of Michigan. That might be one more of those special deals put in there by a couple of powerful Senators, BEN NELSON of Nebraska and DEBBIE STABENOW of Michigan, cut a little deal for a couple of Blue Cross-Blue Shield Nebraska and Michigan companies—maybe that is what Mrs. PELOSI meant when she said, But we have to pass the bill so that you can find out what is in it.

Mr. GOHMERT. I appreciate the gentleman yielding.

If you look at page 1,957, along the same lines of what kind of deals that are in this bill, this has to do with health savings accounts. We know that there are millions and millions of dollars in health savings accounts that only can be used for health care. Well, I know I have an HSA, and if I can get an over-the-counter drug, a generic drug, that is what I buy.

Well, good deal for the pharmaceutical industry here beginning at page 1,957, because it says that such terms shall include an amount paid for medicine or drug only if such medicine or drug is a prescribed drug.

So you may want—like in my case, I have hay fever. I've had since it since I



was a little kid. I go and get a generic for like \$2.50. And now if I want to spend my HSA on it, I can't go spend \$2.50. I've got to go pay megabucks to the pharmaceutical companies in order to get a prescription drug.

Wow, maybe that is part of the deal that made them think, You know what? You know Joe Six-Pack, as my friend from Arizona says, may not get anything out of it, but by golly, we're going to make a lot of money on this bill. Let's throw our support behind it, and the President will love us for it, too.

Mr. BURGESS. One interesting point. You have these groups that went down to the White House in May and June—and I'm not going to criticize them for going down and advocating on behalf of their industries, on behalf of their groups. But what is so onerous about this is the President has proclaimed this Sunshine Week. Transparency is going to be the watchword of his administration. Remember? We heard it over and over again. Everything will be up on C-SPAN, everybody will be able to see it—except for these deals that were struck down in the White House in May and June. And now they come back and say, Well, there really wasn't anything written down. Two trillion dollars in savings and you didn't write a word of it down?

Now, in Texas, as the gentleman knows, we trust each other. A handshake is as good as a signature a lot of times. But when it's \$2 trillion, you're probably going to need a little more than a handshake even in Texas, because are people going to perform as they said they were going to perform?

When Senator MCCAIN wanted to push an amendment that dealt with reimportation in the markup of the Senate bill, in the debate of the Senate bill at Christmastime—I don't agree with reimportation. I think it's unsafe. I think it's unwise. But Senator MCCAIN was prevented from offering that amendment because, to quote somebody at the time, That wasn't part of the deal that we had.

Well, wait a minute. If there is a deal that someone knows about, is it written down somewhere? Could we please see what else is in that deal? We're the legislative body. If there are deals struck at the White House—and it is Sunshine Week—if there are deals struck at the White House, let us see what those deals are.

I'm not criticizing the groups that went down there and advocated on behalf of those groups. That is fine. They should have done that. But we, as the legislative body, should have been privy to any of that information as we tried to craft the legislation that would have to either enact or confirm or deal with those deals.

Mr. SHADEGG. Well, it seems to me that while we do not know what the quid pro quo was for any given deal, we know a couple of things: We know the insurance companies went in first and foremost and said, We want an indi-

vidual mandate. We want the government to compel every American to buy federally approved, Federal Government approved health insurance, and we want the IRS to enforce that mandate. You must buy Federal Government approved health insurance. That is what the insurance companies wanted going into the deal. Funny, that is what they got. They got an agreement that there would be an individual mandate.

So if this becomes law, every single American will be required to buy a government-approved health insurance plan. And if they don't, the IRS will tax them. Huh.

We also know, although the gentleman points out, there is no individual mandate in the Senate bill—there are some things that are pretty close to it—the insurance companies didn't want competition. They certainly didn't want across-the-State-line competition, they didn't want the State tax code to say you and I could buy it tax-free so they would have to compete with each other like the auto insurance companies. It sounds to me like we can kind of decipher some of the outlines of the deal that occurred.

Mr. BURGESS. And I can be as critical of the insurance companies as anyone else, but they take the path of least resistance. Their capital is not necessarily any more courageous than anyone else's. The easiest way to get to what they want is an individual mandate.

But I suspect if we set up pretaxed expenses, buying across State lines, if we develop that market for them, I'll bet they'd find a way to compete, I'd bet they'd find a way to work in that market and win in that market.

Mr. SHADEGG. I think the gentleman makes an excellent point.

The truth is America's health insurance companies are playing under the rules we set, and the rules we set say they really don't have to compete for my individual business, for JOHN SHAD-EGG as an individual customer, or yours, or our colleague from Texas because the Tax Code says we cannot buy health insurance like our employers can. We can't buy it tax-free, but our employers can.

I think the gentleman is absolutely correct. I think the reason that the auto insurance industry competes every day, day-in and day-out, pounding us on TV saying, you buy our plan from GEICO or Progressive or Allstate or Farmers, we will give you better service for a lower cost; and the health insurance companies don't compete day-in and day-out saying, you buy our health insurance plan from United or from Aetna or from Blue Cross-Blue Shield, and we will give you a better price at a lower cost.

The reason they don't compete like that is because the government sets the rules. And the rules say that they sell pretty much exclusively to big companies, and we say to the poor working stiff who can't get employer-

based health care, too bad, pal. You kind of don't count in the system. The insurance companies don't really want their business, they don't market to you, and if you buy their product, you have to buy it with after-tax dollars. Tragically not fixed in this bill.

Mr. BURGESS. Let me point out just one thing.

We hear over and over again Republicans have no solutions for health care. HealthCaucus.org is a Web site that deals only with health care policy. On that Web site, Dr. BURGESS's prescription for health care reform, the seven or nine things that I heard consistently in my town halls this summer are up there. People can download that and look at that themselves.

Suffice it to say that we really have been frozen out of this process from the beginning. They were not interested in our input last year because they had a supermajority in the House of Representatives. You can't pass a bill with 40 extra votes? What's the matter with you?

Well, now, the entire argument, the entire argument is within the Democratic Caucus. They don't have the votes on their side because it is a badly flawed product and a badly flawed process that they are trying to push through on the American people.

People do need to understand this bill has nothing to do with health care any longer. This bill has, as has been pointed out tonight, if we wanted to fix these things, we would have fixed them. This bill is about higher political power for the party in charge, and they want to obligate the American citizenry to re-up their contract every 2 years in order to not lose the benefits that they are ostensibly going to get with the bill.

The bill is a bad deal, Mr. Speaker. I would submit that the American people need to continue to weigh in on this. All is not lost. Time is not up. There is time to make a difference.

I'll yield to the gentleman for a final thought.

Mr. GOHMERT. I just appreciate all the work you've done. There are several bills that have been proposed by Republicans.

Mr. BURGESS. I thank the gentlemen for their time this evening.

#### HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Ohio (Mr. RYAN) is recognized for 60 minutes.

Mr. RYAN of Ohio. I appreciate the opportunity to come up and continue the discussion on health care from a little different perspective than my friends on the other side have been giving the American people.

I want to talk about the need for health care reform in the United States of America and what we need to do here in the Congress to get it done.

We had a nice discussion yesterday in Cleveland with the President of the