

recommend to the National Insurance Commissioner whether a particular insurer should participate in the Health Insurance Exchange, taking into account excessive or unjustified premium increases in making that determination. This will hold private insurers accountable, ensure affordability and help provide quality coverage for American families:

Expansion of community health centers.

This bill makes several immediate reforms that will directly improve the health and wellness of millions of Americans. Some of those provisions are:

Offers tax credits to small businesses to purchase coverage;

Provides relief for seniors who reach the Medicare prescription drug donut hole;

Provides immediate access to insurance for Americans who are uninsured because of a pre-existing condition through a temporary high-risk pool;

Requires new plans to cover preventive services and immunizations without cost-sharing;

Requires new plans to cover an enrollee's dependent children until age 26;

Prohibits pre-existing condition exclusions for children in all new plans;

Prohibits individual plans from dropping people from coverage when they get sick.

I could go on because the list of all the good things in this bill are many.

So to put it simply, this bill is a victory not only for our constituents, but for all Americans because it will make us a stronger and healthier nation.

#### HEALTH CARE

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. Mr. Speaker, I, too, am coming to the floor of the House tonight to try to clarify for the American people some of the things that have happened here over the weekend. As you know, we passed a very big bill last night, hasn't been quite 24 hours, it was about 11 p.m. Eastern time when everyone else in the country was watching basketball tournaments and otherwise engaged with weekend activities, this House was in full session, the place was packed, Democrats and Republicans, and we passed a bill that had been passed by the Senate on Christmas Eve.

Now, I remember when I first got here, Republicans were in the majority, and when we would pass major pieces of legislation, if there was an all-day fight, we would be accused of waiting until the dark of night to try to sneak this legislation through. Now, I have never been one who would pass on the chance to attribute to coincidence that that can be adequately explained by conspiracy, but how is it that we passed, in the Senate, this very difficult legislation the day before Christmas when America was engaged in other activities, and then here on the floor of the House last night at 11 o'clock on a Sunday when most every

other honest American was doing something other than watching their Congress.

I do have to address some of the things that I just heard mentioned from the other side. Remember that there were two pieces of legislation passed here last night. One was the previously passed Senate bill which the House passed. That one is on its way down to the White House. That's going to be signed by the President. That's going to be the law.

And then we also passed a sham bill, a bill that might be called a fig leaf because no one really likes the Senate bill. The Speaker of the House said that herself. No one wants to vote for the Senate bill, and I agree with the Speaker. No one wanted to vote for the Senate bill. So how did they get their side to vote for the Senate bill? Well, they said don't worry, we are going to fix the problems that you don't like in the Senate bill, and we will do that under reconciliation so it's only going to require 51 votes over in the other body, don't worry, we will get that taken care of.

The only problem is, the Senate bill that we passed here last night had already passed the House before last summer—you might not recognize it because it was a housing bill then, but it passed the House last summer—went to the Senate, got changed into a health care bill and then got brought back to the House. And the question before the House, will the House now accept the amendment, the Senate amendment to H.R. 3590, the answer was affirmative, and the bill is on its way down to the White House for a big signing ceremony, probably tomorrow.

Now, what's going to happen to the reconciliation bill? It also passed, and it passed, and went back to the Senate. And is there anything that compels the Senate to take up that bill and work on it? Why, no, there is not.

In fact, the Senate might rationally argue, I am sorry, Mr. Speaker, the other body might rationally argue that, hey, we already passed our health care bill, we passed it on Christmas Eve, you guys apparently liked it because you ratified the amendments we had to it, and last we saw, it was on its way down to Pennsylvania Avenue to the White House. So why would we pick up this contentious package of fixes in the bill?

You know, quite honestly, the oxygen may have all gone out of the room for health care legislation in this Congress. Fourteen months is a long time to have fought this thing, and the Senators may just not have the stomach to pick this thing up and fight through it again.

So some of the things that we need to be careful about when people are talking about the bill—and I will do this too, many of us here in the House are not that familiar with the Senate bill that we just passed because it was the Senate bill. We had a health care bill that was marked up in my committee

and passed out of committee over my objection July 31. I didn't like the bill, but I knew it. I submitted amendments and some of those were even accepted. So I had a lot of familiarity with that bill.

Now, that bill went to the Speaker's office, sat there for a couple of months, got changed all around. All of my amendments got pulled out, every other Republican's amendments were pulled out of that bill. It became a 2,000-page bill, even with the loss of those amendments, and was brought back to this House in early November, and this House passed the House bill.

□ 2100

We knew the House bill. Many of us were—although we didn't like the House bill, we were fairly comfortable with what it contained and what it didn't contain. The Senate bill is completely different. Most of us did not ever see the Senate bill before the Senate brought it up on Thanksgiving and then passed it right before Christmas.

Mr. Speaker, quite honestly, many of us felt like we'd already read a lot of health care bills this year; do we really need to read that Senate bill? Maybe not. Because the Senate will pass it and then the normal procedure is we call a conference committee. We go to conference committee and we debate both sides, get to the debate the House bill, the Senate bill, Republicans and Democrats, a true bicameral process. We're finally going to have that open and transparent process that was promised to us and we'll read the conference report. We won't have to worry about the Senate bill because it's all going to be changed anyway.

Except that didn't happen because, for whatever reason, the Democrats did not want to do a conference report. They say it's because Republicans were going to block the appointment of conferees. But, Mr. Speaker, I would just point out to you that in December and early January there were 60 Democratic votes in the Senate, 256 Democratic votes here in the House. There wasn't much we could block, even if we wanted to. So how we would have blocked the appointment of conferees is anyone's guess, but I did hear that mentioned several times during the debate. So let me just set that point straight.

They thought they could just put things together on their own outside of a conference, and they were doing a darn good job of it. The last week in December, the first week in January on into the second weekend in January, people were meeting in this Capitol, meeting in this building, in the new Capitol Visitors Center, and putting together the pieces, cutting secret deals with unions, cutting secret deals with this group and that group, and we were going to have a bill that would just be blessed by both sides. No conference report. Not necessary because we'll just bring a new bill to the floor that will be the amalgamated bill. The Senate will vote for it. They've got 60 votes.

The House will vote for it. They've got 256. And if they don't lose too many, then they can pass pretty much whatever they want. Then we'll have a health care bill.

What happened in that scenario was that the second Tuesday in January they had an election in the State of Massachusetts. As a consequence of that election, suddenly the Democrats' 60-vote supermajority in the Senate was no more. Now, the new Senator was not seated for several weeks after that election and there was still time to come together with a hasty conference committee and get that thing done or even push through that amalgamated bill, but, for whatever reason, they didn't do that. It really looked for a while like things might just languish indefinitely.

Now we all know the story. In those last 10 days, the President really engaged, the White House engaged, and the Speaker's office engaged. They were just going to get this bill through the House because that was the quickest way—they always say a line is the shortest distance between two points. The shortest distance to getting health care legislation passed in this Congress, in this President's first half of his first term, was to pass the Senate bill through the House. It was something no one wanted to do. No one wanted to vote for that bill. It had awful things. Most of us don't know all of the awful things in that bill because it was the Senate bill. We passed House bills. We knew the House bill, but we heard the minority leader say it last night from this floor. Most of you on the Democratic side do not know what's in that bill.

Now, I dare say, today you've learned a lot of what's in that bill because you've got the phone calls from the press the same as I have. Suddenly, the press got real curious about what was in the Senate bill and they're asking all kinds of questions. So tonight perhaps we can deal with some of those. But one of the things I wanted to point out at the very beginning, be careful what you talk about when you hear us talk about what's in the bills, because both sides of the aisle, both Democrats and Republicans, may not be quite sure what's in the bill.

We heard testimony, or we heard the speeches on the other side here just a moment ago about how Medicaid rates now were going to be plussed-up for primary care doctors. Medicaid rates will become Medicare rates. Well, that actually, in fact, is only for primary care doctors and it is only for 2 years, but it is also only in the reconciliation bill. Did we pass the reconciliation bill? We did in the House. They haven't in the Senate. What did we pass that has passed the Senate? The Senate bill. And that does not have that plus-up in Medicaid rates. In fact, the expansions of Medicaid that we have now put forward that were in the Senate bill, the expansion of Medicaid, will be reimbursed at standard Medicaid rates,

which vary from State to State. But I will tell you, as a medical provider, those put a lot of providers back on their heels, because those rates do not pay the cost of delivering the care, and there is only so much of that kind of business you can do in an average day and still keep your doors open.

So there is a problem with expanding Medicaid to larger and larger populations. The provider community is going to find it difficult to be able to absorb that many more Medicaid patients into their practices because the reimbursement rates are going to remain low. In fairness, it was fixed in the reconciliation bill, but if the Senate doesn't take that up, it never happens. It was the skinniest of fig leaves because it's not there when you need it. What is there is the Senate bill, which is on its way down to the White House, and that will be the law of the land, which will expand Medicaid, to be sure, but does it have the enhanced Federal matching in there for Medicaid? In one State it does. In one State it does. The reconciliation bill was going to fix that so all States would have what that one State now has in the Senate bill, but it is the Senate bill, and only one State has that enhanced Federal match for Medicaid: the State of Nebraska. The famous Cornhusker kickback.

So what happened here last night, what transpired on the floor of the House last night was really dramatic and, in many ways, a fitting end to the 14 months of chaotic process that had brought us to this point. We've heard over and over and over again—and I don't want to belabor the point, and this may well be the last time that I discuss the process that brought us here. But it is worth mentioning, because over and over and over again last night during the debate we heard, You Republicans obstructed at every step of the way. Remember, there's 177 of us; there's 256 of you. We can't obstruct anything, particularly the House of Representatives, where majority rules on almost everything.

And, oh, by the way, the Rules Committee really rules. And the Rules Committee has a nine-to-four advantage for the Speaker. There's not much you can do with 177 Republicans in the House of Representatives if you want to obstruct. Well, you can all hang together and make a principled vote that we're all against this. And that's indeed what has happened.

But the real debate was an internal debate within the Democratic caucus, because had they had the votes, they could have done this in February. Had they had the votes, they could have done this in January. They could have done it in December, the day after Christmas, as opposed to the day before Christmas when the Senate bill was passed. If they'd known this was what they were going to end up with, maybe they should have just done that and saved everybody 3 months of additional anxiety.

The fact of the matter remains, Republicans did not obstruct this bill. Democrats obstructed this bill. Democrats and, oh, yeah, one other thing. They never had the popular support of the American people. Now think about that for a minute. We passed a bill that's going to affect in a very profound and personal way the next three generations of Americans. That's a pretty big bill. One-sixth or one-seventh of the Nation's economy. That's a pretty big bill.

Now, we've heard over and over again, if you're going to do something like that, it needs to be bipartisan. So Republicans should have signed onto the bill. Republicans should have backed the bill. Republicans should have been there. But, wait a minute. The people did not want this bill. Poll after poll after poll has shown, fill in the blanks—52 percent, 55 percent, 60 percent—of the people did not want this House-passed bill, did not want the Senate-passed bill, did not want what the United States Congress was going to do to health care.

Now, if you don't have popular support, then even if you've got 256 Democrats and, now, 59 Senators and the White House, it's very difficult to get your Members to—it's a very technical term we use here in the House of Representatives. It's called, "walking the plank for your leadership." It's very difficult to get your Members to walk the plank for leadership when everybody back at home is howling mad because of what you're doing. And I'm sure many people felt—the old saying that Everett Dirksen used to have, "When I feel the heat, I see the light."

A lot of people saw the light when they went back home. Now they came back to Washington and got their arms twisted and things promised and things promised to be withheld and goodness knows what and they lined up and walked the plank last night. That's what we saw.

□ 2110

People are voting in favor of things they said they would never do. They misled their constituents back home. People turning at 90-degree intersections to principles that they've held for a long time. It was painful to watch. I felt some sorrow for people I saw on the Democratic side having to make these very tough gut-wrenching decisions.

These are good people that are well intentioned, but they got pushed into a corner from which there was no escape. And that corner was the Speaker of the House and the President of the United States. And as a consequence, this bill passed, a pretty slim majority. Not a single Republican. In fact, the only thing that was bipartisan about this bill last night was the opposition because you had 30 Democrats standing with 177, or 178 now, Republicans. That was the bipartisan block on this bill, but they were in opposition.

This bill presents a real problem for the American people. The American

people don't like it. The American people don't want it, but now the American people have it. Now ideally—and people have asked me all day long, Well, what are you, as a Republican, going to do about this now? And the answer is, You fix what you can, and you work toward repeal of the bill.

Now working toward repeal of the bill, you've got to ask yourself. There likely will be bills introduced today and bills introduced tomorrow that will call for the repeal of the bill. I may very well sign on to one or more of those bills. But with the same vote total that we had last night, do you think any of those bills are even going to be brought up for debate? Is the Speaker of the House, is the majority leader going to bring up one of those repealed bills and say, Let's go through this argument and see if any of our Members now feel differently? Well, they could. And there is history there. There is precedent there.

In the late 1980s, this House passed a seriously flawed catastrophic coverage bill for Medicare. They charged Medicare recipients the premium for that catastrophic insurance; and all across the country, people said, Wait a minute, we didn't want that. We didn't ask for that. You're charging us for something we didn't ask for or want. And the seniors in this country rose up, and the very famous pictures of then-chairman of the Ways and Means Committee, Dan Rostenkowski, being chased out of his own town hall by senior citizens who objected to what they had done. And Congress did come back in short order and repeal that bill. Will that happen now? I don't know. That's a pretty painful thing for people to have to go through. We'll see.

We've got an Easter recess coming up. If people do town halls and they get that kind of reaction, maybe we'll be back here talking about one of those repealed bills. But honestly, Mr. Speaker, I think that's a pretty heavy lift to repeal this bill that we passed last night, this bill that's now on its way to the White House to become public law. It's pretty difficult to do that in this Congress because it's not likely that there will be the votes. And then, of course, on the Senate side, it's really not likely that there would be the votes. And if it happened, the President likely would feel differently about it and would exercise his authority to veto that repealed bill, and it is unlikely to get to the threshold of a veto override, two-thirds of the House and two-thirds of the Senate to override a Presidential veto.

In fact, if America has the reaction to this bill that I think they're going to have, there may be many more Republicans and many fewer Democrats here in the House of Representatives next year. I don't know if that number will be enough to change the majority control of the House. It sure could be. It certainly looks increasingly likely from the degree of anger and how upset people are that talk about this bill out

in the middle part of America. But I don't know if there is the political will to change the majority makeup of the House. Again, even if there is, sure, we'll bring that repealed bill up. We'll bring it up pretty quickly and send it down to the White House, and the White House will veto it. I doubt that there will be a new Congress that's seated that will also have the ability to override a President's veto. Again, that's a tall order, two-thirds of the House, two-thirds of the Senate. So I don't know within the time frame between now and January of 2013, if the numbers work out, for this Congress to have the ability to repeal the bill. It's worth trying. It's worth testing. But I don't know if that's a realistic trajectory.

Well, then, what can we do? I think it is extremely important to at least begin to work on some of the more egregious portions of this bill. And I will just tell you, one of the things that really bothers me about this bill that we did is the instituting of an individual mandate to purchase health insurance. Now surely it is the responsible thing for every American, every family to have health insurance against the unlikely but frightening occurrence of some of the diseases that can happen to us as human beings. It's the responsible thing to do. But just because it's the responsible thing to do does not mean that your Federal Government has the responsibility to require you to buy it. We've never done that in this country. Simply as a consequence of being born or living in this country, your Federal Government now says that you're going to buy this product.

In fact, when the bill was passed, people said, Well, under the commerce clause, we have the authority to do that. But that kind of turns the commerce clause on its head. The commerce clause is there to protect commerce, but coercing someone to buy a good or service or product and then invoking the commerce clause to protect that transaction really seems to be going at things the wrong way. Now, if an individual State wants to say as a condition of living in our State, there is a mandate that you will buy health insurance—and there are States that have done that, and if their State legislature passes that legislation, and their Governor signs it, and the citizens of that State are okay with that, then good on 'em. That's fine. That is their prerogative. That's one of the things that a State government is there for. If they pass an individual mandate, and the people turn out the State legislature, well, then they learned their lesson. But that's a different set of circumstances than having the Federal Government make that decision that we're going to require everyone to purchase insurance. In my opinion, mandates have no place in a free society; and in my opinion, mandates are not going to get us the kind of coverage numbers that people expect it to.

You stop and think for just a minute, for a mandate to work, there has to be general knowledge that this mandate is there; there has to be general knowledge of the penalties that one would possibly incur for not complying with the mandate; and there must be general knowledge that those penalties will be swiftly and surely administered.

Now, we do have a model for that in this country, and that is called the Internal Revenue Service. The Internal Revenue Service says that everyone who earns income has to pay a percentage of that income in income tax. In fact, it's withheld from most of us from our paychecks every month. But that income tax must be paid, and we all know that, and we all know that if we don't pay our taxes, we may not know exactly what's around the corner, but most of us know it's something we really don't want to find out about.

Now, with such a draconian mandate for Federal income taxes administered by the Internal Revenue Service with such a mandate, you would expect the compliance rate to be pretty high. Well, it is. But it might be lower than what you might think. The compliance rate is around the order of 85, 86 percent. That's with a pretty severe mandate.

What about health insurance? Right now it's voluntary. As I said, it's the responsible thing to do. People should have coverage. People want to have coverage. In this country, most people are covered by employer-sponsored insurance. There is another 8 to 15 percent covered in the individual market. But insurance is a responsible thing to do. And in the voluntary program of insurance that we have in this country, what is the problem that we hear about over and over again? We've got 15 percent of our population without health insurance. Well, that does mean conversely you have 85 percent with insurance. And what is the compliance rate with the IRS? It's pretty close to the same number.

□ 2120

So are you going to get more of that 15 percent to sign up for health insurance if you put this very draconian, liberty-stealing mandate from the Federal Government out there? I don't think so. I think mandates have no place in a free society; and as a consequence, I don't think they belonged in this bill.

Further, what did the stock market do today? It jumped up a bunch, didn't it. You might say, well, see that proves the point, Americans so wanted this health care bill to pass the House of Representatives that they rejoiced by going out and running up the stock market. Or perhaps because insurance companies and pharmaceutical companies are going to profit so much by the fact that you now have to buy health insurance, that their prices went up. Their stock went up because people looked at futures and forecasting and said, wait a minute, insurance might

be a good stock to buy because in just a short period of time, everybody in the country is going to have to buy insurance.

Wouldn't it be a better approach, instead of mandating people to buy insurance, and again, I don't believe you are going to get a reduction in insurance rates by demanding that everyone buy health insurance, because what incentive is there for the insurance company to hold the price down? There isn't any. If anything, there is an incentive to raise rates because you have to buy it, otherwise the IRS is coming to visit grief upon your household. So the insurance companies may be feeling pretty good about this bill that we just passed last night because they are going to sell a ton of product. You are going to have to buy it, or you get into all kinds of trouble. The IRS is going to come and raise billycane on your head if you don't buy this insurance. So the insurance companies are feeling okay with this.

And the pharmaceutical companies, yes, they came to the table with a big bunch of money, and they gave up something to get this health care bill passed. But at the end of the day, the closure of the doughnut hole, yes, but it is for brand name products you get that discount, so they will sell more of that branded product which is the most expensive product, and people are going to blow through that area where they have to match some of the expenses and the catastrophic coverage will kick in pretty darn quick. Pharmaceutical companies may stand to gain a great deal from the passage of this bill. So it is really no surprise that the stock market went up today. Drug companies and insurance companies, they may look to be doing okay in this brave new world order that we gave to the American people last night.

A very famous quote from the Speaker earlier in the debate on all of this was: We need to go ahead and pass this bill so people can find out what is in it, and then they will really like it after the fog of the discussion is removed.

In fact, I have heard essentially that same statement on the floor here today. One of my friends on the Democrat side said, You know, finally, all of the rhetoric can be put aside and people will see what is in this bill, and they will really like it.

So let's talk about what is really in this bill, and I will leave it up to the American people how much they like it. We have already talked about the individual mandate. Absolutely unprecedented. The government has never required people to buy a good or service as a condition of lawful residence in the United States. That is a quote from the Congressional Budget Office.

It will be invoked under the commerce clause. The power to regulate commerce among the States is not unlimited. And here is a thought: What if the courts allowed this to stand? What if that power was in fact unlimited? Your imagination almost cannot han-

dle what some of the things that your Federal Government might decide to do if we removed that power, or we removed that condition on exercising that power.

Some of the other things that are going to be found in this bill are tax increases. I know I heard it over and over again during the debate that the Republicans shouldn't mislead people about tax increases in the bill, but they are there for all to see. Go to the Web site Thomas, the Library of Congress Web site, and download the CBO letter on S. 3590, the Senate-passed bill, and look at some of the tax increases that are there.

Medicare cuts, are they there? Yesterday the Democrats kept saying, There are no cuts to Medicare in this bill. Well, there darn sure are. Again, looking at the tables at the back of the CBO report, some of them look to be pretty darn significant. Reductions in annual updates to Medicare fee-for-service payment rates over the period 2010 to 2019, that is a 10-year budget cycle, that is a cut of \$86 billion. Medicare Advantage rates based on plan bids, that is cut \$118 billion. Medicare and Medicaid disproportionate share hospital payments, that is cut \$43 billion over that 10 years. Community living assistance services and supports, that is cut \$70 billion over 10 years.

One of the things that is really disingenuous about these cuts, and they have it laid out year over year in the Congressional Budget Office report, and the next 4 or 5 years those cuts are actually pretty modest, and then they really kick in the last 5 or 6 years. And we all know there is a big Presidential election coming up again in 2012, and so perhaps it is no accident that those cuts are diminished in the early years and then expanded in the out-years.

Payment adjustments for home health care, that is almost \$40 billion in reduction. Again, Medicare disproportionate share hospital payments down significantly. That is one of the significant things. It is hard for people to understand what is a disproportionate share hospital payment. Some hospitals see—and remember I told you that Medicaid doesn't really reimburse providers the cost of providing their care. Now no one cares so much about the doctor because who needs doctors in the health care system anyway, but we do care about hospitals. And hospitals historically have been protected. If they see what is called a disproportionate share of uninsured patients or underinsured patients, Medicaid where the reimbursement rate is low, they get a plus-up from the Federal Government, and it is called a disproportionate share payment.

One of the things that they did in the State of Massachusetts, they said we are giving all of this money to hospitals for disproportionate share payments, what if we just took that money and helped people buy insurance? Everybody is insured, and then you don't need to provide the dis-

proportionate share payments any longer.

But you take a State like mine, a State like Texas, where a great number of the uninsured happen to be in the country without a valid Social Security number, for whatever reason. Now we heard the President of the United States stand here in this House in September and say very clearly that no one who is in this country illegally will be able to participate in any of these benefits. If that is correct, and Texas has a problem with people who are in the country without the benefit of a Social Security number who also happen to be uninsured, they won't be eligible for any of these benefits. They won't be eligible for any of the subsidies in the exchanges. They won't be able to access the insurance that Congress is passing. That is not necessarily a bad thing. You don't want to provide an incentive for someone to come into the country without going through the proper channels. So what are we going to do in a State like Texas where we have vast numbers of uninsured who are there without benefit of a Social Security number? They are still going to access care through the emergency rooms of our safety net hospitals, but we are also at the same time cutting those disproportionate share payments to those hospitals. So the hospitals are actually catching the grief from both sides. Their uninsured and underinsured populations are going to go up, and their reimbursement rates are likely to stay low, and disproportionate share payments are going to go down. That is a business plan that may make sense to the Federal Government, but I bet it doesn't make sense to most hospital administrators who run our safety net hospitals around the country.

So anyway, when people tell you that the Republicans are misleading, we are trying to scare you on the Medicare cuts, they are outlined in the Congressional Budget Office report, and they are as plain as day for everybody to see. The subtotal for Medicare cuts: A negative \$430 billion over 10 years. Add the other community-living reductions of \$70 billion, and that is \$500 billion. That is what you have heard Republicans saying for the last several months. You are going to cut Medicare by \$500 billion. At the same time, you have more people coming into the Medicare system, and you are really doing nothing to hold down the cost of delivering medical care.

□ 2130

You're creating a situation where you're actually going to increase the stress on the system, not decrease the stress on the system; additionally, \$500 billion in new taxes coupled with that \$500 billion of Medicare cuts. The President stands in front of us and says, And this bill will be paid for; in fact, this bill will reduce the deficit.

Well, you're leaving out a big part of one of the things that didn't get fixed

in the Senate bill. You've heard me talk before about what's called the sustainable growth rate formula. This is the formula under which doctors are reimbursed in Medicare.

Back in 1988, the institution of the, what's called, relative value payment scale, RBRVS, whatever that acronym stands for, every year we tended to try to ratchet down reimbursements to physicians because we felt, if we didn't, they'd just spend too much money.

Well, what has happened over time, of course, as doctors' reimbursement rates have gone down, they've tried to see more and more patients so that their bottom line didn't suffer. And, as a consequence, the spending has gone up and the SGR has had exactly the opposite effect of what was intended.

We are in a real problem with this formula right now. This year, there were projected to be cuts of almost 21 percent to doctors who provide services to our Medicare patients. The payment rates for part B in Medicare were going to go down by one-fifth. For some specialties, it was going to go down even more than that. But just in general, it was going to go down about 21 percent.

We put a stay on that just about a week ago with a bill that passed by voice vote in this Congress, so it wasn't a recorded vote, and this put a stay on that cut until November. What happens then is anyone's guess because we didn't fix the problem in the House-passed bill. I mean, we didn't fix the problem in the Senate-passed bill. That bill's going down to the President for his signature.

What's going on who happen to the doctors in Medicare? Well, Congress needs to fix that. Why hasn't Congress fixed that, by the way? It's been going on for years. Started with the Democrats, then it got worse under Republicans, and it's getting a whole lot worse now that the Democrats have retaken the majority.

Well, why didn't anybody fix that? The reason they don't fix it is because it scores, by the Congressional Budget Office, as a cost, a cost that is, no one really agrees upon the price, but it's somewhere between \$250 billion to \$350 billion. It could even be more than that if you tried to protect some part B premium payers from the rapid expansion of Medicare costs, Medicare part B costs caused by the rapid increase in repealing the SGR.

Remember that part B premiums are based on a formula: 25 percent of the actual cost of administering the part B program. We add another big cost to the part B program in the repeal of the sustainable growth rate formula, and Medicare recipients, Medicare participants in the part B program may see their premiums go up even faster than they've seen them go up the past several years.

So that's a problem. If we are honest about addressing the problem, it is likely to be \$350 billion to \$400 billion. But it could be scored as low as \$250 billion if you use some smoke and mir-

rors, which we try to do when we do budget things.

Nevertheless, it's still a big amount of money that will have to be added to this bill, and we didn't do it. We just simply didn't do it. The congressional Democrats told the Congressional Budget Office, don't score the SGR repeal in this bill.

Now, the House will tell you that, Hey, we passed an SGR repeal last November, didn't get any Republican support. Oh, wait, they got one. Okay. It was me. But that bill was going nowhere and everybody in this House knew that was going nowhere. In fact, the Senate had previously rejected the same bill 10 days before. So that was another fig leaf.

Oh, we're going to take care of the doctors. Let's pass this SGR repeal. And, Oh, the rascals in the Senate or the rascals on the Republican side wouldn't let this thing stand.

But the fact of the matter is it hasn't been fixed. The fact of the matter is the Democrats are in charge. The fact of the matter is they need to tell us how they propose to deal with that. This kicking the can down the road—and we did it, too, when we were in power. But this kicking the can down the road is making the problem a lot worse, and it is really putting our seniors at risk of not being able to access physicians. Just look at the statistics out there.

A company called Medicus that is a doctor search firm did a survey in December. And kind of depending upon how you ask the question, they said, If the Democrats' health care bill passes, will that affect your decision to retire or continue practicing medicine? If the public option was contained within the bill, almost 45 percent of physicians said they would consider retirement. That doesn't mean 45 percent of doctors will retire, but it meant nearly half of the doctors in this country would seriously look at it. Doctors who were near retirement age, about a quarter of them, about a quarter said, Seriously consider retiring early. Doctors who were nowhere near retirement age, about a fifth of those said, Yeah, I could see myself having to get out of this.

Now, if you remove the public option from the equation, if you remove the public option, the number goes down, and it's about 30, 31, 32 percent of doctors who would consider retiring early. A significant number of those who are already near retirement age, about 20 percent of doctors who were near retirement age would consider retiring early, even with the public option out of the Democrats' health care plan. And about 7 percent, 7 or 8 percent would if they were nowhere near retirement age. But still, that's a lot of doctors who are considering retiring if we pass one or two of these bills.

Let's leave the public option question alone for just a minute. We need to come back to that later because that is a significant part of this, but amongst

the things that are in the bill that people may want to know about are these tax increases, are the Medicare cuts.

Of course, one of the big fights here last night was would the bill contain what's called the Hyde amendment language that would prevent Federal funding for abortion. A lot of controversy ensued. The bottom line is the Senate-passed bill did not contain the Hyde amendment language. The Stupak language that passed in the House bill in November did, but that wasn't the bill we were debating. That wasn't the bill we were passing.

Again, another fig leaf was trotted out in the form of an Executive order. But how many Executive orders did President Obama repeal on his first day of office, Executive orders that President Bush had had in place? It was a ton of them.

Now, the President, to his credit, did say that he would not tear up the Executive order the first day after the bill is passed, but I don't recall if he made a promise about the second day or the third day or the fourth day.

The fact of the matter remains that protection against using Federal funds for abortion, for paying for abortion is pretty tenuous right now, and that thread could be snapped at any time. And the fact is the American people just don't know at this point. And it's a shame, because we could have had that argument. We could have had a more solid amendment. But the fact of the matter is we didn't do that.

Other things in the Senate-passed bill:

The special deal for Nebraska, the Cornhusker kickback, it is in the Senate bill. It did pass. It's on its way down to the President for signature. Does that violate any constitutional principle like equal protection under the law? It might. It might. If the good, long-suffering, taxpaying citizens of Texas now have to subsidize Medicaid in Nebraska, that might get some suspicion from the Supreme Court of violating the 14th Amendment, but we'll have to see.

A special deal for Florida where their Medicare Advantage would not be cut in certain counties in southern Florida. Medicare Advantage cuts, as I pointed out to you, are going to be steep and significant in this bill, but the three counties in Florida will not sustain those cuts. Again, equal protection under the law. That may be a violation of the equal protection clause of the Constitution.

In fact, my attorney general back home in Texas said the Federal health care legislation passed tonight violates the United States Constitution and unconstitutionally infringes upon Texans' individual liberties.

□ 2140

To protect all Texans' constitutional rights, preserve the constitutional framework intended by our Nation's Founders, defend our State from further infringement by the Federal Government, the State of Texas and other

States will legally challenge the Federal health care legislation.

So what looked like a Federal health care bill may in fact have represented a bill for full employment for lawyers in this country.

There are some other bad provisions. There is a tax on the so-called Cadillac health insurance plans. Remember that was supposed to be fixed in the reconciliation bill, but the reconciliation bill is not the law of the land. The Senate bill is the law of the land and that Cadillac tax is in there. So for individuals with incomes under \$250,000, they're going to get a significant tax if they have one of the high-end insurance policies. Clearly, that is a broken promise by the administration.

Boy, construction firms. I mean, who did they irritate in the Senate? Construction firms were singled out for higher taxes. In the Senate language, the employer mandate only exists or a fine if you don't provide—if your employees have to access care under the exchanges with subsidies. The fines don't kick in until you have more than 50 employees, but construction firms, there is a much smaller number. Single digits. If they're employed by a construction firm, they will have to pay an employer mandate or an employer fine.

Now, here's one of the provisions that is really—I don't think people know about it. I'm not sure if they do know about it and they understand it, but this new board that has been created in the Senate bill. One of the ways that they attempted to deal with Medicare spending was to assemble this board, this board of commissars and commissioners who are going to set Medicare spending targets, and they will do that and they will set those targets. Yes, they have to come back and be voted on by Congress, but we just have to vote them up-or-down. We can't amend them. We can't say, well, we're just going to plus them up a little bit and reduce this one down a bit. We've got to take the whole board of recommendation as a slate. It's an up-or-down vote here on the floor of the House.

I will just tell you when Congress has to be the enforcers on these things, look what we've done with doctor payments over the years. We're supposed to reduce them, but we really didn't because we didn't want to face the wrath from doctors for seniors so we took the easy way out and gave them a 1-year stay on that. And the consequence on that is the tab continued to run on those doctor payments. So now it's as high as \$20 billion that—I am sorry, a 20-percent cut that will have to come out of doctor payments.

We might do the same thing with this independent board, or we would lack the courage to vote on the cuts anyway if we didn't like the way they came down to us. Congress does have a history of doing that.

Some other provisions of the bill double-counts some Social Security pay-

roll tax revenues, double-counts the premiums collected for what was called the CLASS Act. That was one of the great bait-and-switch things that was included in this bill. We're going to provide long-term care insurance. You pay for that \$50 a month and then you can get a benefit of \$50 a day if you need to access long-term care insurance. Well, this actually scores as a savings because for the first several years it is in play, more premiums are collected than money is paid out. But guess what happens in the second half of, or the second 10 years of, these expenditures? Those payouts are going to exceed the premiums paid. And that is going to be an unmitigated disaster.

And the real pernicious part of the CLASS Act—look, people my age, if they can afford it, they should buy long-term care insurance. Don't wait on the Federal Government to give it to you. Don't believe you're going to get it from Medicare for you. It's only for a short period of time. Yes, you can get long-term care under Medicaid, but you've got to spend yourself to near bankruptcy before you get any of that benefit.

The sensible thing to do if you can afford the premium is to buy a long-term care policy.

The CLASS Act is going to tell people, Hey, you don't have to worry about that. Pay your \$50 a month for long-term care. You're covered. That's nonsense. The coverage is thin. It will not be there after a period of time because that program is going to pay way too much money after a few years. And the problem with long-term care insurance is the longer you wait to buy it, the higher the premiums are going to be. For people who are in their early fifties, it's something worthwhile to look into.

But we're going to send a message to the next 10 years of Americans who are turning—Don't worry about it; We've got you covered with the CLASS Act. There is no coverage at all there. In fact, it is going to be an unmitigated disaster when people start trying to access that. Besides that, anyone who's paid for long-term care, anyone who's had a family member in a long-term care facility, does 50 bucks a day really take care of what you need in a long-term care facility? It's nowhere even close.

The bill double-counts some of the Medicare cuts. So we get to count them once, and we get to count them a second time.

Texas is really going to suffer under a reduction in disproportionate share funding. Drug makers will face an annual fee of \$2.5 billion. But you know what? That \$2.5 billion is not going to come out of the CEO salaries. It's going to come out of product sales. So that will be passed on to the consumer. So although they look like they're being all great and helping out the President and putting out \$2.5 billion, this goes back to the Americans who buy their product.

In 2011, this bill will limit flexible spending accounts to \$2,500 per year. Yeah, you'll still be able to have your FSA, but you will be limited on the amount you can put into it.

Here's one that really most people are not aware of. There is a medical device manufacturers' fee which is again going to be passed on to the end user, the consumer, the patient, which is you. Continuing on the time line in 2011, there is a health insurance provider fee—\$2 billion in 2011, \$4 billion in 2012, and then it goes up from there rather dramatically. Again, a tax on health insurance providers.

Who do you think is going to pay that, the CEO of the big insurance company? Probably not. The guy that's buying the insurance? Probably. Again, I talked about this before. In 2013, the excise tax of 40 percent will be imposed on the Cadillac plans. In 2013, new Medicare taxes on individuals earning more than \$200,000 a year and couples making more than \$250,000 a year, the Medicare tax on your withholding is going to rise to 2.35 percent. There is going to be a new 3.8 percent tax. Starting in 2013, a new 3.8 percent tax on unearned income. Dividends, interest, capital gains. 2013, an excise tax of 2.9 percent imposed on the sale of immediate medical devices.

Now, not all medical devices—and we all heard the stories about the Band-Aids when the Senate was talking about this. There will not be a Band-Aid tax. This will be for so-called class 2 and 3 medical devices. Class 2 devices would be syringes, sutures, some testing that a doctor might do in their office. Some of those testing kits will be taxed at that 2.9 percent rate.

Let me tell you something here. As a doctor, you don't get to pass that tax on to your patient because most of your patients that come in that are insured, you actually see them at a contractual rate. So whatever the code is, there is a contractual rate for that code and it doesn't include that 2.9 percent tax. And employers with more than 50 employees must pay a fine of up to \$3,000 if employees receive tax credits to purchase insurance.

So billions of dollars are going to be spent to hire thousands of new IRS employees needed to collect the taxes. Yet three out of 10 doctors says if Congress goes against their will and the will of the American people and passes this bill, they may retire from practicing medicine. So that's what the people are going to get—more IRS agents, less doctors.

Simple equation. How does that equal health care reform?

Ideally, we would repeal the entire bill and start over with real reforms. It seems unlikely that's going to be able to happen. Really, Members on both sides of the aisle that were concerned about this bill last night need to work together to repeal the more egregious portions of this bill and ultimately work toward the repeal of the entire bill when the make-up of the Congress



and the White House has sufficiently changed to allow that to happen.

Let me talk a little bit again about the Senate-passed bill. We're not talking about the reconciliation bill. We're not talking about the House-passed bill. Remember the Senate-passed bill in December? There was a Senator from Connecticut who said, I cannot vote for a bill if it's got a public option in it.

□ 2150

Maybe it's because there are a lot of insurance companies in Connecticut, I don't know what the reasoning was, but that Senator was very firm that they would not have his vote, and they needed every vote they could to get to 60, so the public option was very reluctantly stripped out of the Senate bill. But is it really going? And the answer is it might not be.

Now, you have heard that several States around the country are looking at, I believe it's up to 37, was the last count, are looking at either filing a constitutional challenge or somehow exempting their State from participating in this new Federal legislation, and that also means that they may not set up the State-based exchange that the bill, the Senate bill, calls for.

Well, what happens in a State that doesn't set up an exchange? Is there not going to be any exchange, so there won't be any insurance in the exchange available to citizens of those States? You would think so, because States should ultimately have sovereignty, except that there is a little known Federal agency called the Office of Personnel Management that is going to be charged with setting up a State-based exchange or a national exchange that every State that doesn't have a State-based exchange, that their citizens can buy through this national exchange. And the Office of Personnel Management, in the language of the bill, is required to set up one insurance company, one for-profit insurance company, and one not-for-profit.

Does this federally administered, national exchange, not-for-profit, insurance company begin to look a lot like the public option that was discussed in the Democrat's bill in the House? The answer is, of course it does.

The Office of Personnel Management currently administers the Federal employee health benefits plan here for all Federal employees, not just in Congress, but all employees. So they are a relatively small agency. That's a big insurance plan, but still, as Federal agencies go, that's a relatively small agency.

It is going to have to rapidly ramp up with a great number of new employees. Perhaps that's one of the ways we are going to deal with unemployment is to hire more people in the Federal Government. But the Office of Personnel Management will have to get considerably larger, and this Office of Personnel Management will now be the de facto public option as it administers

the not-for-profit that's in the national exchange that is available to people who are in States that don't set up a State-based exchange.

It is a public option by another name. Unfortunately, the Senator that sought to prevent that from happening did not see the way this was going to work out in their own Senate bill. So when I say the doctors who look at retiring from practice, if there is a public option in the bill, perhaps the more they get to understand that this public option is really in the bill, maybe they will rethink their willingness to continue to work within the system.

Are there other ways to change this bill that we passed last night? Certainly, everyone ought to be treated equally under this bill, and they haven't been. Maybe that's one of the technical fixes we could work on so that there is no geographic disparity, there is no racial disparity. People, equals, ought to be treated equally, and that is one of the things that really we should work on.

I think we should work on getting rid of the individual mandates and the employer mandates. Certainly we could encourage comprehensive coverage for seniors. Right now, look what we are doing to Medicare Advantage. Look what we are doing to putting the tax on the supplemental insurance.

We really should, rather than discouraging seniors from having a Medicare Advantage plan or a supplemental plan, maybe we ought to encourage that. After all, the Medicare Advantage plans are doing what we asked them to do. We asked them for care, coordination, disease management, expanded health IT, expanded use of physician assistants, nurse practitioners, paraprofessionals.

Medicare Advantage plans are performing those functions. They are just now getting to the point where they are really starting to see the cost savings that we all said would be there if they would do those things, and now we are going to take them away. Okay, never mind, we shouldn't have done it anyway, so sorry about that.

Allow health insurance to be sold across State lines. We have talked about this a lot. If you want competition, don't have the Office of Personnel Management create a nonprofit that everyone is going to compete with. That's only one other bit of competition. Let the 1,300 insurance companies that exist in this country, let them compete. Let them compete up on the Internet, let them compete across State lines.

The portability of insurance, Congress attempted to address that back in 1996, arguably made kind of a mess of things. But if we would do things that would establish and create an enhanced portability of insurance, we would go a long way towards establishing a longitudinal relationship, a patient with their insurance company.

If you go from job to job, you don't change insurance companies. You have

your insurance company, and you can take it with you. Allow private insurance and alternatives to Medicaid and SCHIP, special health savings account for the chronically ill, health insurance plans to specialize in solving problems for the chronically ill.

All of these things are out there and within our purview. These are all things we should undertake to fix the egregious problems that are in the Senate bill.

#### **\$13 BILLION A YEAR FOR HEALTH CARE**

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

Mr. KING of Iowa. Madam Speaker, I very much appreciate being able to address you here on the floor of the United States House of Representatives and what has been referred to in the past as the world's greatest deliberative body—and what has to struggle to reach that standard these days, I would say, Madam Speaker.

You know, we are not done yet. This legislation passed the House sometime this morning. I will just say, first of all, I am grateful that this usurpation of American liberty technically in its final phase didn't take place on the Sabbath during Lent, although most of the machinations, debates, and battles, and some of the votes, actually did take place on the Sabbath during lent.

Our Founding Fathers would have considered it a serious violation of the standards of decency to assault liberty on the Sabbath, especially during Lent, and I consider it the same. Sacrilegious may have been something that would have come to mind.

But what we have seen is the Senate version of the bill, which has come over here to the House and was voted on and debated on first, and voted on. And the identical form is the Senate—was the legislation that most of us heard President Obama refer to, and I believe it was in the conference February 25 at the Blair House, as ObamaCare.

Thirty-some million more people put on the rolls, and many of them on Medicaid rolls, many of them don't quite fit the standards that seem to be the highest ideals of the initiation of this legislation. The argument is, if there is \$130 billion, it will be reducing the deficit over a 10-year period of time, \$130 billion over 10 years. The American people can move a decimal point one place to the left and figure out what that is annually, \$13 billion a year by their calculations.

Madam Speaker, I could take you down through the list of the spending that has been out of control by this Congress. It all has to be initiated here, promoted by the President of the United States, trillions, trillions of dollars added up, \$700 billion in TARP, \$787 billion, which rolled into over \$800 billion and the economic stimulus plan, of which only 94 percent of Americans believe did any good, and that