

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. FORBES) is recognized for 5 minutes.

(Mr. FORBES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 3244. An act to provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2011.

#### 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. I thank the minority leader for allowing me to speak this afternoon during the leadership hour. It is always a significant event to be asked to speak during the leadership hour, and I certainly appreciate the confidence shown in me by the leadership.

This afternoon I thought we'd talk a little bit more about the health care bill that was passed by this House last month because it is an important subject and one that continues to cause problems across the country. Almost anyplace you go, people want to ask you questions about, Why did you do this bill, and what does it mean for me, and what can I expect going forward?

Mr. Speaker, I know I need to confine my comments to the Chair, and I will do so. But if I were to be able to speak to people directly, I would encourage them to look at a health care policy Web site that my office maintains. It's called the Congressional Health Care Caucus, [healthcaucus.org](http://healthcaucus.org). This Web site chronicles many of the debates and discussions that occurred over the last 14 or 15 months, encapsulating the genesis of this health care bill that was passed last month. And really with the passage of the bill, the health care issue does not go away. We simply move into the second part of what is going to be the health care discussion because after all, even as we speak, just down the hill at the Department of Health and Human Services, they are busily working and hiring people, people who are going to be writing rules, writing regulations, and really dic-

tating the policies that will direct health care in this country not just through election day, not just through election day 2012, but literally through the lives of the next three generations of Americans.

So this is an important concept, and people do need to pay attention. As the rules are written over at the Department of Health and Human Services, there will be periods open for comment on that public rulemaking process, and people need to visit Web sites such as [healthcaucus.org](http://healthcaucus.org) or the Health and Human Services Web site to familiarize themselves with the rules as they are being written. If you get the mental picture of some central planner moving data points around on a big map or graph, that's probably the right mental image to have right now with where we are with this health care bill.

Let's talk just a little bit about how we got to where we did with the passage of the bill. The recognition after the presidential election of 2008 that health care was going to be a big part of the legislative agenda for the President's first term. There was no question about that. And as we worked our way through the year last year, concepts such as cost and coverage started creeping into almost every story that was written about health care. Because it was after Senator Kennedy's committee over in the Senate, that Health, Education, Labor, and Pensions Committee, released a Congressional Budget Office score on the bill that they were working on which showed a cost significantly north of \$1 trillion over 10 years and coverage numbers of about 13 million additional people being covered, that people said, Oh, my goodness, this costs a lot, and we don't get nearly the coverage that we thought we did. So almost every other health care proposal that came forward after that was subject to that same Congressional Budget Office scrutiny and scoring. And as a consequence, it kind of got an idea of the parameters that were being set. Those parameters were that the bill had to be scored and costing under \$1 trillion, and the bill had to score as covering an additional 30 million people. Those were the points on the graph that had to be satisfied at the end of the discussion.

So if it were a question of covering everyone who makes under 150 percent of the Federal poverty level under Medicaid, as was the directive from the bill that was passed in the House, if that made the final number too high, then you do what they did in the Senate and say, Well, we're only going to cover people up to 133 percent of the Federal poverty level with Medicaid, and that money that's not spent on covering people with Medicaid at higher income levels, we'll use that for something else. And there was all sorts of jockeying for position that occurred over the months during the debate last year.

We passed a bill out of committee on July 31 last summer. The bill was actu-

ally supposed to be passed out of committee much earlier and was supposed to come to the floor, and we were supposed to pass the bill on the floor of the House before we went home for the August recess. But because the Speaker of the House decided to take up the climate change bill in June and force the passage of that bill right at the end of June before we went home for the Fourth of July recess, thereby causing many Members to feel some anxiety from their constituents back home over what they had done with this large energy tax that the House just passed, many Members of Congress were reluctant to move with rapidity on the health care bill because they were feeling the push-back from the energy bill that they wondered if maybe we didn't pass this a little too quickly and maybe we should have read the bill and studied and understood what the bill did before we voted on it.

So the month of July was kind of a give-and-take. Really most of the discussion was on the Democratic side of the aisle. It did not involve Republicans. But it was moderate Democrats who were concerned about the passage of this bill too quickly.

□ 1415

Ultimately, the bill did pass in committee. All of the moderate Democrats on my committee voted in favor of it and ultimately it passed, but it didn't pass until the House had already adjourned for the August recess on July 31. As a consequence, the bill did not come back to the House floor until after the August recess.

Most of us know what happened during August. There was a significant amount of anxiety exhibited across the country where people would show up at their Member of Congress or their Senator's town hall meeting during the summer and voice either their support or their rejection of the concept of the health care bills that were being discussed in the House and the Senate, and the feeling was almost uniformly negative against what was being passed at least on the floor of the House.

The situation that occurred after the end of the summer town halls, I thought we would come back and, perhaps with a renewed spirit of bipartisanship, realize that we could not do something this large when it was against the will of the American people. I thought we would come back and hit the pause button or the reset button or maybe even the rewind button and go back to committee and rework this bill; but that was not to be.

The President of course came and spoke to a joint session of Congress here in the middle of September, speaking right from the podium right there behind me, and talked about how they were going to go forward with their vision of health care reform, and it didn't really matter what people said over August. Americans must have been in some sort of fugue state because they didn't really mean what

they were saying when they said they did not like this bill that we, Congress, were going to give them, we, the President, was going to give them.

So as a consequence, in December, after the House passed—the House did come back and pass a bill early in November. The bill had grown from 1,000 pages at the end of July to 2,000 pages by early November. It was interesting that the bill had grown in the number of pages because all of the amendments that were made in order during the committee process were all mysteriously stripped from the bill before it came back to the floor; but the bill was much larger.

The bill came to the floor and passed by a very narrow vote. And again, the polling done the day of that vote showed that only about one-quarter of Americans actually supported the work we were doing, about another 30 to 40 percent felt that we were doing the wrong thing, and another small but significant percentage said you shouldn't even be doing this right now because your focus should be on creating jobs in the American economy. But we passed the bill.

What happened next was really something the likes of which I have never seen before in my short tenure here in Congress. Between Thanksgiving and Christmas, the Senate wrote and produced and passed a health care bill. Now, both Senate committees, the Senate Health, Education, Labor, and Pensions Committee and the Senate Finance Committee, had worked on different bills through the course of the year; but then they worked on an entirely different bill between Thanksgiving and Christmas Eve and the ultimate passage of the bill. The bill, interestingly enough, had a House number, it was H.R. 3590. It had a House number because it was a bill the House of Representatives had passed earlier in the year. It wasn't a health care bill when we passed it, but we did pass it on the floor of this House. It was a housing bill, not a health care bill; but that bill was picked up over in the Senate, amended so that all of the housing language was removed and the health care language was inserted.

But it wasn't a question of let's get the best possible health care policy and put it in this bill. It was more a question of what will it take to get your vote and we will put that in the bill. That process was so unseemly. The last part of December people were engaged even though they were concerned about the goings-on in their lives for the holidays and the end of the year activities, but they were also concerned about the appearance of votes being bought and sold and people actually coming to a conclusion to vote "yes" for the bill because they had gotten some special deal contained within the bill. That process was so flawed that even though the Senate achieved that 60-vote margin on Christmas Eve, the bill will be exhibited by the American people continued for weeks after that.

Now the bill did pass on Christmas Eve; it was passed early in the day to get Senators out of town ahead of a snowstorm. As a consequence, the bill itself was not ready for prime time. No one, I really believe this, no one in the Senate ever thought that would be the final product. This was, again, simply a placeholder to get the Senators out of town before Christmas and be able to say that they had passed a health care reform bill before the end of the year. Everyone thought we will come back to a conference committee or we will come back to some type of arrangement where we meld the House and Senate products together; maybe it won't be a formal conference committee because we really don't want to include Republicans, but we will still work on trying to get some of the rough edges of this thing knocked off and include some of the House-passed principles as well.

Unfortunately for America that never happened because what did happen is the second Tuesday of November an election held way, way up in the State of Massachusetts, where a Republican was elected Senator in a seat that had been held by a Democrat for literally generations, and that happened because the appearance of passing this bill before Christmas Eve appeared so awkward, appeared so unseemly that it looked as if people were buying votes for the bill. The American people pushed back, and even in Massachusetts that was too much to take and Senator SCOTT BROWN was elected.

As a consequence of that, it was apparently felt by leadership in the House and the Senate that a conference committee was not a good idea and there would not be the support for this bill on either the floor of the House or the Senate if they were to bring it back requiring the 60-vote margin in the Senate and of course a simple majority in the House.

The Speaker of the House at one point was asked could they just pick up and pass the Senate bill in the House and get it down to the President for his signature. The statement then, right after the Massachusetts election, was that the Speaker did not believe she had 100 votes on the floor of the House for the Senate bill.

It was significant that the Senate bill had a House bill number. It was significant that the Senate bill, although now it was a health care bill, had passed the House previously because under the rules of Congress if that bill would come back to the House of Representatives with the question asked, Will the House now agree to the amendment made in the Senate on H.R. 3590, and if that answer was "yes" by a simple majority, then the bill is passed and it goes down to the White House for signature. Well, ultimately that is exactly what happened.

During the remainder of the month of January, all of the month of February, and much of the month of March, the same process occurred over

here where Members of Congress on the Democratic side of the aisle were encouraged, cajoled, threatened—whatever—to change their vote or to change their mind and vote for this health care bill.

Well, it passed. It passed and was signed into law. It required a significantly sized fix-it bill to be passed within a week because the bill was so flawed it really could not stand on its own. Indeed, there have been multiple things that have been brought to people's attention since that time about problems that existed with the bill, and I rather suspect we are going to continue to find those problems occurring over and over and over again in the next several months.

My opinion: this bill should be repealed, and we should actually go back and do what the American people really were asking us to do when they showed up at those town halls in large numbers in the month of August. They did not want us to turn the entire system on its head in order to help the people that legitimately needed to be helped. Yes, we needed to provide some assistance to people with preexisting conditions. Yes, some tort reform would be nice. Is there anything you can do about the cost of health care in this country? But don't take away what is working for 60 to 65 to 68 percent of the American people. That was a message delivered loud and clear in the month of August and has been delivered loud and clear in every poll that has been taken on the subject since that time.

The system needed reform; the system did not need to be changed from top to bottom. And yet over the next 8 years that is exactly what we will see, a system that none of us will recognize by the end of 2010, 2014, 2016, 2018—pick your point on the timeline.

Currently in my State, the State of Texas, Attorney General Greg Abbott is pursuing a court case—and joined with several other States to do so—to argue before the Supreme Court that the bill we passed is unconstitutional. Proponents of the bill, people who think the bill was proper and is constitutional, argue that under the commerce clause of the Constitution this bill will be held to be constitutional by the Supreme Court even though the concept of universal health care is discussed nowhere in the Constitution.

The problem with the commerce clause is that we are now, for the first time, requiring a citizen of the United States, merely as a condition of being a citizen of the United States, to buy a good, service or product that they may not want, need, or feel they are able to afford. This is the first time the commerce clause has been invoked to protect the commerce that was essentially coerced by the Congress. So the attorneys general of several States are now pushing that case and are going to argue that before the Supreme Court.

One of the shortcomings of the Senate bill, one of the things that wasn't

properly thought through, was the provision of what is called a severability clause in the bill. We actually had a severability clause in the House bill that was passed in November, but no such severability clause was included in the Senate bill. Perhaps in their haste, just to get something done before that snowstorm on Christmas Eve, they simply forgot about it.

What a severability clause would do is, Congress recognizes that from time to time we will overstep our bounds in the eyes of the courts and the court might strike down a provision in the bill, but the severability clause allows the rest of the bill to stay and be enforced. Without a severability clause, this is now up to the discretion of the court. The court could, if it agreed that the commerce clause could not be invoked to pass this bill, strike down the entire bill, or they might use the discretion of the court to only strike down a portion of the bill that they deemed unconstitutional. That drama has yet to play out, and likely it will during the summer months or fall and we will have to see what occurs with that. But I do support Attorney General Greg Abbott in Texas and many of the other attorneys general across the country who are actively pursuing this course against this bill.

What would repeal look like? Could Congress in fact repeal a bill that had passed and been signed into law by the President? The answer is yes, and there is actually precedent for that. In 1989, some people will remember the name Dan Rostenkowski. He was the chairman of the Ways and Means Committee—a Democratic chairman from the State of Illinois, coincidentally—and passed the Catastrophic Health Care Act. This was the Catastrophic Health Care Act for senior citizens. The bill was actually passed in a bipartisan fashion in both the House and the Senate. It was thought that people wanted this, but in fact it's one of the problems that you have when you get out in front of the American people and give them things that they don't necessarily want that actually cost them money.

What happened with the Catastrophic Care Act was the pushback was so intense and so immediate that when Congress came back into session, they quickly decided that perhaps the world could live without the Catastrophic Care Act and they repealed it. Now, this bill was passed in the final months of the Ronald Reagan administration; it was signed by President Reagan. The repeal was signed by President George Herbert Walker Bush. But the concept of repeal of a bad health care entitlement law is one that certainly has been exercised within the lifetimes of many of us who are serving in this body today.

Since the passage of this bill in March, support across the country has diminished, opposition has increased; and, again, that is likely to continue as the bill will become more and more un-

popular as people dig into it and look into the provisions of the bill.

One of the other things that is working against the concept of this bill was the absolutely poisonous process that led to its passage and its signing. Back in May or June of last year, six stakeholders met down at the White House to talk about health care reform. Now, there is nothing wrong with that. That is perfectly proper that perhaps the people who represent the doctors, the hospitals, the drug manufacturers, the device manufacturers, America's health insurance, and representatives from the Service Employees International Union met down at the White House to talk about health care reform.

In a very well publicized photo op that occurred after those meetings, the President came out before the cameras and said that he had agreement from the six parties that were in those meetings that they would save \$2 trillion over the next 10 years in the delivery of health care. Well, I simply asked for the notes of those meetings, the agreements that were agreed to in those meetings so that we, as the legislative body, could evaluate that as we were working on the legislation, the actual law or the bill that would become law here in the House of Representatives.

I sent letters to the White House in September. I was rebuffed without any sort of information. Ultimately, in December, I filed what's called a resolution of inquiry with my committee, the Committee on Energy and Commerce. This resolution of inquiry was brought up before the committee on, interestingly, the same day that the President delivered the State of the Union Address in January.

□ 1430

The resolution of inquiry was not going to pass because, obviously, on a party line, the Democrats are in charge, and they can strike down almost anything they want. Yet the chairman of my committee consented to allow me to request of the White House six of the 11 things that we had asked for in the resolution. He said some of the information is right and proper and should go to the gentleman from Texas should he request that information. So we re-requested the information.

Essentially, all we have received from the White House are copies of press releases and copies of Web pages that were reproduced for us, but there has been nothing regarding anything that was written down, nothing regarding any arrangements that were made or any deals that were made; there has been nothing regarding any email exchanges that occurred resulting in the savings of \$2 trillion.

Now, I will admit to sometimes being relatively naive, but it seems to me that, if you're going to agree to a \$2 trillion deal, someone, at least on the back of an envelope somewhere, is going to kind of keep a tally of what

those numbers are—someone is going to write something down—but the White House would have us believe that, no, there has been nothing written down.

Is it significant? I submit that it is. There were several points that came up during the debate of the bill, both in the House and in the Senate, where an amendment would be offered and where the discussion then would suddenly end with, Well, that wasn't part of the deal.

In December, Senator McCain had an amendment over in the Senate about drug reimportation. I don't agree with drug reimportation. I actually think that is a bad idea, but I do think Senator McCain should have had the ability to submit his amendment, to debate his amendment and to have it pass or fail on the merits of the amendment. In no way should he have not been allowed to offer that amendment because of a secret deal that was made down at the White House with the drug manufacturers, but that is exactly what happened. He was stopped from offering the amendment by his committee chairman, who said, That's not part of the deal that we have.

Another area is where the hospitals were going to be taxed as part of the pay-for within the bill. They said, Wait. That wasn't part of our deal.

Well, the deal may be fine, the deal may be proper, but we as legislators should at least be privy to those decisions that were made down at the White House. We should at least have the information about what was agreed to and on whose behalf those agreements were made. We never got that information, and to this day, I still await some response from the White House.

Significantly, during the Presidential campaign, when he was a candidate, President Obama said, and I'm quoting here: "And that's what I'll do, bringing all parties together, not negotiating behind closed doors but bringing all parties together and broadcasting those negotiations on C-SPAN so that the American people can see what the choices are, because part of what we have to do is enlist the American people in this process."

I couldn't agree more. Yes, you've got to enlist the American people when you're doing something this broad and this sweeping, but they never bothered to do that. Yes, you do need to open those meetings up. C-SPAN can sometimes be a trifle boring when you watch us for too long at a time, but it's important. It's a window to the world that people have on the legislative process.

So, when the President made that pledge no less than eight times during the campaign, it struck a chord with people; it resonated with people. If my Representative is involved in those meetings, I'd like to see where he stands. The President would make this point: Does the Representative stand on the side of the drug companies or does he stand on the side of the people?

Does the Senator stand with the insurance companies or does he stand with America's patients?

They are important concepts to know. Unfortunately, we have not yet had the ability to know what those deals were.

I've got to believe that this is such an important point that people got this when it was offered to them: Look, we'll make it an open and transparent process. You can watch it on television if you don't get too bored, but it will be your choice. You can watch it on television. I think people picked up on that notion. Honestly, this is one of those where, yeah, people can say things during a campaign that they actually can't deliver on after the election is over. That happens all the time. I understand that. But this is a "read my lips" moment. This is a "read my lips: no new taxes" moment. The President promised that all of these negotiations would be up for purview, covered on C-SPAN, that you would be able to watch, and that you would be able to make the decision as to whether this process was a good one or a bad one. Again, unfortunately, to date, that has not happened. I do hope that the White House does at some point get us that information.

Now, one of the things that I heard over and over again during the summer, during the town halls, is that, really and truly, if you're going to hold prices down in the delivery of medical care, you're going to have to do something in the realm of liability reform.

I understand this because, in my home State of Texas, we, in fact, passed significant liability reform back in 2003, and that has made Texas now one of the more favored places to practice medicine. There have been doctors who have fled other parts of the country and who have moved to Texas. In fact, one of the bigger criticisms in Texas right now is that it takes the Texas State Board of Medical Examiners too long to process an application because their backlog is so significant, but it is a far cry from where we were in 2002 when we were, in fact, labeled as one of the States in crisis in the medical liability crisis.

Now, during the 8 years since that bill passed as a State bill, Texas has licensed over 15,000 new physicians. It is important. Texas is a big State, and there are lots of open areas in Texas. Since the passage of that law back in 2003, 125 Texas counties have added at least one high-risk specialist. That's like half of the counties in Texas, and there are 224 counties in Texas. That's over half of the counties in Texas that have added one high-risk specialist. My home county of Denton County is one of those. Tarrant County, another county I represent, also is one of those.

We heard stories in 2002-2003, all over the State, of people who were closing their medical practices—radiologists, perinatologists, doctors who take care of the sickest of the sick pregnant moms with the sickest of the sick new-

born babies. They simply could not get liability insurance because their risk was too great. Their risk was too high. They were leaving the State. The State paid for their education in State-supported schools, the State supported them during their residency training, but the State could not offer them a place to practice because they could not afford liability premiums in the State. So, since that bill has passed, 125 Texas counties have added at least one high-risk specialist.

Again, Texas is a big State. It's not hard to believe, especially in some of the less populated areas out in West Texas, that a person might live many, many miles from a physician, but since the passage of this law, now 99.7 percent of Texans live within 20 miles of a physician. That is a staggering success story with the number of doctors who have moved into the State and who are practicing. Yes, some are practicing in urban areas, but many are practicing in rural areas, in rural areas that previously did not have emergency room doctors and that previously did not have obstetricians but that now do, and that is critical for access to care in the State of Texas.

We've talked about this health care bill, and we've talked about access to insurance, but really, when you need health care, you're not so much interested in an insurance policy; you're more interested in do you have a doctor there to see you when you're sick.

There are 82 Texas counties that have seen a net gain in emergency medicine physicians, including 43 medically underserved counties and 29 counties that are partially medically underserved. There are 33 rural counties that have seen a net gain in ER doctors, including 26 counties that previously had none. There are 26 counties that previously did not have emergency room doctors which now have emergency room doctors in the State of Texas. Such has been the effect of medical liability reform.

In my field of obstetrics, Texas saw a net loss of 14 obstetricians in the 2 years preceding reform. And you might say, Texas is a big State, and 14 is not that many; so, hey, you can deal with that sort of loss. But since the State passed the law, they've experienced a net gain of 192 obstetricians, and 26 rural counties have added OB docs, including in 10 counties that previously had none. I mean that's a big deal. When you have a family member in labor who is looking for a place to have her baby, it is important to have the care there when you need it.

There are 12 rural Texas counties that have added an orthopedic surgeon, including in seven counties that previously had none. Again, that's a significant fact, particularly in areas of rural Texas where the drive might be quite long if you're dealing with an injured loved one and are trying to find orthopedic care.

Charity care rendered by Texas hospitals has increased by 24 percent, re-

sulting in almost \$600 million in free care to Texas patients since the passage of that liability reform law in 2003. Texas physicians have saved almost \$600 million in liability insurance premiums, which is a significant savings that has allowed more doctors to stay in practice.

The Texas law has been so successful that I introduced legislation into Congress that was modeled after the Texas law. It is H.R. 1468, the Medical Justice Act. I offered this in the form of an amendment when we marked up our health care bill in the House Energy and Commerce Committee last summer. It was rejected first on a technicality and then along a party-line vote.

If we're going to ask our doctors to be our partners in this brave new world of health care we've constructed, the very least we can do is give them some stability in their practices. That stability would be in the form of some relief from the problems that they face with medical liability.

Another problem that is faced by our Nation's doctors, which is one of the reasons we are very likely to face a significant doctor shortage—and again, in spite of the fact that we passed a health insurance bill, if we do not have doctors to see those patients, then it is not going to do much good that we passed that bill. When passing this sweeping health care reform bill, it would have been the ideal time to talk about things like physician workforce and how we train doctors and how we pay for that training, but we chose to omit most of that thinking from this bill.

Another problem that we face on almost a recurring basis here in Congress is the fact that Medicare, by formula, ratchets down reimbursements to physicians year over year over year. In fact, this year, the number was to go down over 20 percent. Last week, we passed a very small bill that extended that deadline to the end of May, so doctors got a little bit of a reprieve, and patients got a little bit of continued access to their physicians.

I will have to tell you, as a practicing physician, that is a significant event when a major payor like Medicare comes in and says, We're going to be paying you 20 percent less next month for the work that you do for us. It is a difficult problem to fix, it is an expensive problem to fix, but it is one that just simply must be done, not just because it's the right thing for doctors, but because, if we do not have doctors who commit to staying in practice and taking care of our Medicare patients, then patient access is going to be a critical problem. We will all stand up here and talk about how we want our patients, our Medicare patients, to have only the best and quality care, but it's very, very difficult to guarantee them quality care when we can't even assure them of a doctor at the other end of the phone line when they need one.

Now, in the health care bill that we passed, primary care physicians do get

a little bit of a boost in payments for Medicaid, but that is short-lived, and there are still going to be significant disparities between payments of primary care and specialty care. Medicare and Medicaid rates for primary care services will increase for primary care but only for a very short period of time. We are very famous in Congress for doing this. We'll say, We're going to take care of you. We're going to actually pay you what you think you're worth for the next 18, 20 or 24 months. These things are called funding cliffs. Sure enough, there is a big funding cliff in the health care bill that was passed, and doctors will face falling off that funding cliff now in a little less than 2 years' time.

Fixing the Medicare payment formula, fixing the so-called SGR formula, is going to be a tough lift. The House did pass a bill last fall. Unfortunately, it was a bill that had already been rejected by the Senate, so I'm not quite sure why we brought it up and voted on it on the House side, but we did. It was a bad bill. It didn't really fix the problem, but it was the only opportunity to pass a Medicare fix, or an SGR fix, or a doc fix, during the calendar year 2009. So I voted in favor of it even though the bill, itself, was a dreadful product. Surely, we can do a much better job.

Now, I have an SGR reform bill, H.R. 3693, Ensuring the Future Physician Workforce Act, and I would encourage Members of Congress to look at that. This is going to come back again and again and again. We passed a short-term extension. We now have solidified physician payment through the month of May, but beginning June 1 or 6 or some date early in June, that 20 percent funding cliff will still be out there, and we are going to have to take care of that.

I rather suspect, this being an election year, we're not going to do anything large to fix this problem. We should, but I do rather suspect that we will do something that punts it down the road until after the next election. It's a shame. It's a shame, because when we're doing something as big as this fundamental health care reform that we did, it seems like this is exactly the type of problem that you would like to take care of.

Again, what do we hear from our folks when we go home and talk to them about health care?

Well, I'll tell you what, Congressman. One of my biggest problems is trying to find a doctor who will take Medicare.

If seniors change locations, if they move from one town to the next, if they leave their towns when they retire and move to be closer to their grandchildren, they are very likely going to experience difficulty and delays in finding doctors who are taking new Medicare patients.

□ 1445

Because of what we in the United States Congress do to physicians year

in and year out, it has become so cumbersome to find physicians who will take new Medicare patients that it has become a critical access issue for our seniors.

Let me just talk briefly, because it is important, one of the mistakes that was made in the bill, one of the problems that emerged after the bill was passed and signed, and most people in the country are not going to shed too many tears about this, but Members of Congress actually lost their health insurance after the passage of this bill. Or actually the way it's written, Members of Congress will now be required to buy their insurance through the insurance exchange just as every other American will be required to do beginning in the year 2014. The exchanges are not going to be set up until 2014, but Members of Congress, as of the signing of this bill, are required to buy their health insurance through the exchange.

So we are now asked to buy insurance in a nonexistent exchange, and that is going to make it difficult. Our staff do fall into the same category; so I am getting many questions from staff saying, Well, they're still taking a health insurance premium out of my paycheck, but am I really insured or not? And there is some confusion and it needs to be cleaned up. Again, most Americans are not going to shed too many tears about Members of Congress being confused about their health insurance coverage. They're going to say, Welcome to my world. But interestingly enough, the people who wrote this bill, and that would be committee staff, administration, staff from the White House, leadership staff, the people who actually wrote this bill—and make no mistake about it. Certainly no Republican was involved in writing this bill. Most Democrats were not involved in writing this bill. In fact, I will submit to you House Democrats especially were excluded from this process. So who writes a bill like this? Well, it is tenured and long-term committee staff, leadership staff. Yes, the White House was out here big time while the bill was being hammered out during the latter part of December and the first part of January. All of those people who actually wrote the bill are exempt from that.

So there is one little simple fix-it bill, H.R. 4951, that would also require committee staff, leadership staff, members of the administration, political appointees at the Federal agencies to also be covered under the exchange the same as Members of Congress. Now, again, the problem is that we're required to be covered under the exchange. The exchange is not up and running until 2014; so it remains to be seen how that will work out. But the irony of Congress voting itself out of health insurance because they didn't understand the bill that came over from the Senate on Christmas Eve is just simply too important to ignore.

One of the last things that I do want to cover this afternoon is yesterday my

committee, the Committee on Energy and Commerce's Subcommittee on Oversight and Investigations, was going to have a hearing on America's business that had released information that they were going to change their earnings projections because of issues that occurred after the passage of the health care bill.

So you see here, and this actually should be a minus sign in front of all these numbers, a company like AT&T was going to have to write down a billion dollars in charges because of changes to their accounting that was now going to occur as a result of our passing the health care bill. Well, when these companies released the press releases that they were restating projected earnings because of what the health care bill had done, John Deere was going to have write down \$150 million; 3M Company had to write down, again, that should be a negative \$90 million.

When that occurred, the chairman of my committee, Mr. WAXMAN, said, This is not right. These companies are simply doing this to embarrass the Congress and embarrass the President. They need to come before our committee and be held accountable for why they would release this type of information on a day that was otherwise a day of great national joy when the President was signing the health care bill.

Well, the companies responded that they were simply performing under requirements like the Securities and Exchange Commission. Their earnings were going to be affected by the passage of this bill, and they were required to restate earnings based upon that information. And maybe they didn't need to release it on that particular day, but certainly that information needed to be made public. And, indeed, many of these same companies had contacted members of the committee staff and let them know this in advance of actually releasing the information.

Now, interestingly enough, when it came to light that the heads of these companies stated, Well, we're just simply doing what you told us we had to do under the rules provided us by the Securities and Exchange Commission, the committee decided to postpone indefinitely that hearing.

But it was troubling. It was troubling because here we have a rather significant subcommittee in the United States House of Representatives, a rather significant subcommittee that can issue subpoenas if it wants. It does take testimony under oath. This is generally not an exercise that a company CEO will look forward with great relish to come before our committee and have to answer questions. And some of us saw that as actually an intimidation tactic: Don't you dare complain about what we have done with this health care bill or we can make your life miserable if you do.

Health care costs are going to take a toll on United States profits, corporate

profits, according to estimates by a benefits consulting firm, Towers Watson. Medtronic, a medical device maker, warned that new taxes on its products could result in about a thousand workers being laid off. Their accounting also estimated that there will be thousands of layoffs and consumer-related costs.

If you came out against this bill, if you dared to speak out against this bill, the message was loud and clear to corporate America: We're going to call you in. We're going to question you under oath. We are likely to embarrass you in a public forum. So don't you dare complain.

But one of the things that I have heard over and over from both large and small business back home is this health care bill is going to have a profound, a significant, and a deleterious effect on just simply conducting a business. More than one small business in my community has come back to me and said, As I run the numbers, as I look at what happens to me through the year 2014 and the requirements that will be upon me, it is very likely that my bottom line will go negative and stay negative as far as I can see unless I don't expand or I don't hire. In fact, the succinct message that the United States Congress has sent to small and medium-sized business across the country in every State of the Union is don't hire right now. Don't hire right now until you know what is going to be required of you, Mr. or Mrs. Employer. We are likely going to change the way your business works, again, in a very profound and significant way.

Now, I also sit on the Joint Economic Committee, which is a House and Senate committee. The first Friday morning of every month, whether we're voting on the floor of the House or not, we need to be in town to receive a report from the Department of Labor. And that report is the employment report for the preceding month. It comes out the first Friday of every month. Usually those numbers are released at about 8:30 in the morning, and our committee convenes at 9:00 or 9:30 to hear from the head of the Department of Labor as to what the employment statistics look like.

I joined that committee in January of 2009. We have never had, never had in the 15 months that I have been in the committee, a good news report. In fact, one of my constituents back home said I'm bringing such bad luck to the committee, maybe I ought to consider some other assignment. But the fact remains if we keep doing things in Congress, in the House and the Senate, in the legislative branch, if we keep doing things that send a loud and clear message to small business, medium-sized business don't hire right now, we're not going to see the type of employment recovery that we all feel that the economy is capable of.

Look, whether you believe in bailouts or stimulus or not, everyone

knows that the United States economy is too vibrant not to recover. There is almost no way that the United States Congress or the White House, regardless of who occupies these chairs or who is down at the other end of Pennsylvania Avenue—there is almost no way that the Congress or the White House can keep the American economy indefinitely suppressed. But we can really lengthen the pain, and that is one of the things that we're doing right now.

The uncertainty we have created with health care costs, the uncertainty we have created with energy costs, the uncertainty that we are creating with this financial services bill that is now being argued over in the Senate, small business, medium-sized business is looking at what is going on in Washington right now and saying, I may need help but I don't think so. I will either pay a little overtime or just rachet back some of the expansion I was doing. Yet every person who runs for office, and you can take this to the bank, is at some point going to stand up on a stump or a chair and give a speech to a chamber or rotary club back home and say small business is the engine that drives our economy. And that's exactly true.

If I have one small business at home that might be looking at picking up one or two additional people but says, Right now is not the time and I am not going to do that, okay, that's only one or two jobs. Could that have a profound effect on the larger economy? You bet. You bet. When you take that one or two job growth that's not occurring in that business and extrapolate it across the broader economy for businesses of that size, that has a significant, a significant deleterious effect on the growth of jobs and the economy. And yet it is the unemployment numbers that are really the depressive part of what is happening in the economy right now. Yes, Wall Street might look a great deal better than it did last year. Maybe some other numbers, the gross domestic output, may look better than it did last year. But the numbers of unemployed, the numbers of long-term unemployed, the numbers of young people unemployed, the numbers of minorities unemployed, those numbers are what people are having to deal with every day. That's either them or their friends and neighbors, and that's what they see every day. And until we address the problems with employment, no one in this country is going to believe that we really have the appropriate handle on the economy or the economic direction of the country.

Again, I believe the economy will recover in spite of the United States Congress, in spite of the White House. It almost always does. But we can certainly make that recovery much more difficult and much more painful and perhaps suppress it longer than it would be otherwise suppressed by our activities here in the House of Representatives.

Suffice it to say, as we wrap this up, I believe this health care bill to be a fiscal disaster. It is going to increase the deficit. I don't care what anyone else says. It's \$582 billion over the first 10 years, and likely as not, over the second 10 years those numbers even become more startling. You look at how the bill is constructed. You've got 10 years of taxes paying for 6 years of benefits. Is it any great surprise that the next decade, which is 10 years of taxes and 10 years of benefits, that that deficit is not likely to increase?

We also have a problem that the bill double counts Social Security payroll tax revenues, a budgetary gimmick that made the bottom-line number look great. Again, remember the parameters that we were working with? You have got to have the top number less than \$1 trillion. You have got to have the coverage number over 30 million people. Move those points around on a chessboard however you want, but those are the parameters with which you have to work. So if you double count income from Social Security payroll taxes, if you double count the money from the Medicare cuts, of course your bottom line is going to look better.

We also did something in this bill that's called the CLASS Act. Most people are not aware of it. It's thought of as a long-term care supplemental insurance, but the reality is it's a Three-card Monte. For a \$50-a-month cost, a beneficiary may receive \$50 a day in additional long-term care costs for a long-term care hospital. Well, most of us know that \$50 a day is not going to cover your stay in a long-term care hospital. Most of us know that the numbers on that equation really don't work out. But what happens is since you have so many people just joining the program at the front end, during the first years you actually run a surplus, but then you get to the outyears and you run a significant deficit.

The CLASS Act was literally a financial manipulation that was introduced at the last minute, not to provide people long-term care insurance. If we really wanted to do something with long-term care insurance, we'd make it tax deductible. We'd make it a tax credit. We would make it so you could pay for it out of your health savings account. If we really wanted to help people get long-term care insurance, there are ways to do it. The CLASS Act wasn't it. What the CLASS Act was, was some fancy bookkeeping, some manipulation of the books. Collect a lot of premiums up front. You don't start paying benefits for several years. So that will score as a savings, score as a revenue raiser during the first 10 years of this budgetary cycle, but in the outyears it does nothing but explode the budget.

Again, in my home State of Texas, it's estimated that this bill is going to cost the State of Texas almost \$25 billion in additional funding for Medicaid, and additionally there are going to be



cuts to the safety net hospitals, so-called disproportionate share cuts.

□ 1500

Other dates of significance in 2011, the drug makers face an annual fee of \$2.5 billion. Now, many people say, wait a minute, the drug companies make too much money anyway so, yeah, hit them with a \$2.5 billion charge beginning in 2011. Maybe they should be paying a little bit more.

But think about it for a minute. That \$2.5 billion, where is that going to come from in the pharmaceutical manufacturing world? Is it going to come from the CEOs' salary? Is it going to come from the lobbyists' salary? I think you know the answer to that. Those dollars are going to come from increased costs to the end user, the patient, you and me.

In 2011 medical device manufacturers are going to be charged an additional fee. It goes up to \$2 billion per year. Again, that's not going to be paid by the CEO of one of these Boston companies that is a medical device manufacturer. That money is going to be paid by the patient who receives that defibrillator or that artificial hip, that vein filter for preventing blood clots. Those are the people who are going to actually be paying that fee, not the companies themselves.

There's a health insurance provider fee, \$2 billion in 2011, and it goes up from then. Again, that money is not going to be taken from the CEOs' salary, from the private insurance companies in this country. Whether they are for profit or not for profit, that money is not coming out of the CEOs' salary or the lobbyist money. That money is coming out of the ratepayers' hide.

There's going to be a tax on wages that will increase to 2.35 percent. In 2013 there will be a new tax on unearned income on dividends and interest, almost 4 percent.

In 2013 the excise tax of 2.9 percent is imposed on the sale of medical devices. Now, these are class two and class three medical devices in your doctor's office or hospital. So class one devices like Band-Aids, tongue depressors, those won't be taxed. But class two devices, and what are some examples of class two devices, syringe and needle, those are going to be taxed in your doctor's office.

Now, in your doctor's office they can't charge you that 2.9 percent tax that they have to pay on the tax on that syringe because that's a contractual amount between the insurance company, the patient, and the doctor. That's very difficult for a doctor's office to pass that charge along, so actually doctors are going to bear the brunt of that. Hospitals too are likely to bear the brunt of that. Since their arrangements are contractual with insurance companies, they're unlikely to be able to pass that cost along.

Other types of medical devices, type two devices—interestingly enough, I'd like to say everything from lasers to

leeches will be taxed in your doctor's office.

Employers with more than 50 employees must pay a fine of up to \$3,000 if employees receive tax credits to purchase insurance. So that's where a lot of the small and medium-sized business is really concerned and the arbitrary placement of those numbers, why is it 50 employees, why not 55? Why not 45? Simply because they had to pick a number and start somewhere.

So if there's a small business back home that has 48 employees, but they've got so much work, as the economy recovers, that maybe they'd be fixing to add five jobs, they're not going to do it. Let's stay under 50 employees. Our life will be a lot easier under this health care bill. At least let's wait. At least let's wait until we see what's going to happen.

What's up next? Well, let me say it again: I favor repeal of this bill. Rip it out, root and branch, and get it gone, and then come back and fix the things that people told us they wanted fix.

But what we are going to see next is just down the street at the Department of Health and Human Services; another Federal agency called the Office of Personnel Management, OPM; the Internal Revenue Service. They're writing the rules and regulations that are going to dictate how this legislation, how it now turns into the rules and regulations that govern what happens in your doctor's office or hospital and essentially dictates what happens in your life when you intersect with the American health care system.

This will take some time. This is not something that is going to occur overnight. Right now the hiring is in process, so, yeah, maybe the administration can say we're adding a bunch of new jobs over at the Department of Health and Human Services and IRS. But most of us would just as soon that those IRS agents weren't hired because they generally are not there to make our lives go smoother and easier.

Office of Personnel Management, that's an interesting phenomenon. Many people will recall that when the Senate passed their health care bill, Senator LIEBERMAN said, I won't vote for a health care bill that has a public option within it. And yet we have a bill that, in fact, does have a public option. And it's not called a public option straight up, but it is a public option, sure enough.

States are required to set up State exchanges. People will be required to buy their insurance in the exchange. Some people will have those costs subsidized; some will not.

Well, what if a State does not set up an exchange? Can the Federal Government force it to set up an exchange? And the answer is no. The Federal Government will set up a national exchange for those States where no State exchange exists. Within that national exchange, under the law, it is required that there be one insurance company that is a for-profit company and one

that is a not-for-profit. These insurance companies, if no company signs up to do this duty, that exercise is then taken over by the Office of Personnel Management.

So a nonprofit insurance company administered by the Office of Personnel Management begins to look a lot like what was discussed last July and August as the public option. It, in fact, will be a de facto public option within a very short period of time. So those who opposed the bill and said I couldn't support a bill that had a public option, but now that the public option is out of it, I'm okay, I can support the bill, guess what? They got a public option.

Let me just conclude by saying this was not a bipartisan bill. The opposition to this bill was bipartisan. You had almost 40 Democrats and every Republican who said, we don't want this bill.

Interestingly enough, part of the story that is yet to be told is the effect of this bill on what happens early in November, later this year. In USA Today, the little newspaper that comes out nationally, earlier this week there was an article about the number of physicians who have filed and are running races for Congress. It will be unprecedented numbers. I think the actual number of doctors, Republican doctors who have filed for congressional races, is just a little over 30, 32. There are many more waiting in the wings. Some States have much later primaries. That number will likely go higher.

Not every doctor will win their primary, unfortunately. Not every doctor will win their congressional race. But I think it's safe to say that the next Congress, the 112th Congress, when it convenes next January, is likely to have more physicians within that Congress than anytime in the previous hundred years.

This bill has had a profound effect on how Americans think about their health care and how they think about their relationship with their government. Is a government that is bigger better for the individual or worse?

Many people are now having that internal discussion or that discussion around the dinner table that never would have thought about that in years past. But now it has become an important issue.

This next November will be a seminal time in American politics and American governance going forward. It will dictate whether this bill continues to exist and exert control over the people's lives, continues to take money out of the lives of productive citizens, or whether this bill is turned back, and then the Congress gets down to the serious work of correcting the problems that people told us they wanted us to correct and we ignored them consistently through the fall and through the winter.

I think it says something that the opinion of Congress right now are in the low double digits. Any doctor who's

willing to run for Congress, and I can tell you this from some personal experience, doctors actually enjoy a fairly high approval rating. It's in the high seventies. You come to Congress, it goes into the low teens.

It is a significant step to run for Congress for physicians. And yet doctors across the country are willing to give up their peace of mind and their livelihood to come to the aid of their country in its hour of need.

#### BIG GOVERNMENT AND THE WILL OF THE AMERICAN PEOPLE

The SPEAKER pro tempore (Mr. DRIEHAUS). 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. Mr. Speaker, I appreciate being recognized to address you here on the floor of the House. And I remind you, Mr. Speaker, that these deliberations here represent the most deliberative body in the world. And that's the argument that we've made for years. And even though it's not as deliberative as it was before Speaker PELOSI took the gavel, we still have some discussion time down here. We still have Special Orders. We still have 60 minutes and alternating hours between Democrats and Republicans when both sides do show up for those alternating hours.

But tonight that's not the case. This is the wrap-up and the finish of the week, Mr. Speaker. And many have gone to the airport and caught a plane and gone home to their district or wherever they might go.

But I don't think enough has been said yet this week. It's been a relatively short week, and not a particularly trying or testing week with anything that stands out here as significant accomplishment.

But I'm watching still as policy moves in America. And the policy that has been shoehorned through this House of Representatives and become the law of the land has caused the American people to fill up my town hall meetings.

We were not here on Monday. We didn't gavel in until, well, we gavelled in on Tuesday, and the first votes were sometime about 6:30 on Tuesday evening, so the work week is Tuesday evening for two or three votes. We call it naming post offices. That was the level of the significant suspension calendar. And then we had some debate on Wednesday and some committee activity. And today is Thursday. It's been low key. Last votes took place maybe 2 hours ago, something like that. So our work week is all day Wednesday, finishing the night on Tuesday and the early part of the day on Thursday and then going, a lot of people going home, Mr. Speaker.

That's okay with me because I don't support the agenda that's being driven here out of the Speaker's Office. I don't support the process that has been developed.

I do support the Constitution, liberty, freedom, fiscal responsibility, limited government, and I support the people that have been coming here to petition the government for redress of grievances. That's a constitutional right that we all have. And I've seen tens of thousands come here to say, don't take away my freedom, don't take away my liberty. Let me have the right to manage the health care of my own body, for example.

And the people across this country that have said over and over again that the fiscal irresponsibility with the profligate spending that's been going on for the last 3 years-plus in this Congress is more than they can abide.

And my town hall meetings on Tuesday, or excuse me, on Monday of this week, one in Council Bluffs and one in Sioux City, we're not jam-packed to the walls with people standing outside looking in the doorway, as they were during August of last year, when people believed that they had a chance to put the brakes on what we now know and the President refers himself to as ObamaCare. That packed our town hall meetings in my district, all over my district, all over the State of Iowa, all over the United States of America, hundreds and hundreds of town hall meetings with hundreds of thousands of Americans that came in to express that they did not want the government to take over the management of our health care.

And I have never seen an issue that brought this much intensity and this many people out. And still the leadership in this Congress was determined to shoehorn a bill through here. And that happened maybe 3 weeks ago or a little more, early in the wee hours of a Monday morning, just a little after midnight, as I recall. The final vote was on a Sunday night.

The Speaker could not have allowed the Members of Congress to go home, let alone for an Easter break period of time, because she knew that if the Democrats in this Congress went home to listen to their constituents, that their congressional offices would be jammed full of people that said they were there to petition their Members of Congress for redress of the grievance of a government takeover of health care. And they would have filled the streets by the tens and hundreds of thousands. They would have demonstrated at congressional offices. They would have filled any town hall meetings. There would have been an outpouring of rejection of that policy like this country has never seen.

And so the Speaker kept her own Democrat Members here on the Hill and insulated from their own constituents, even to the extent that, as the phone lines either jammed or they were shut down, I don't know which, but the last 3 days I couldn't call my own office. And I know that there weren't that many people calling my office. They were busy calling the offices of Democrats who were determined to vote for ObamaCare.

But I couldn't get through because the switchboard was jammed, at least the last 3 days here in the House. While you had Members that couldn't even be heard, their constituents could not call them. They couldn't get through to send them a fax. Yes, they could send an email, presumably. And we don't know whether those emails went on an automatic dump or whether there was an answer. Only their constituents can know that.

We know that there was a difficulty verifying if the Senate, during their period of time that this was an important issue, up till Christmas Eve, if in the Senate actually Members were answering their telephones.

□ 1515

But here they couldn't get through to call my office. I couldn't call my own office from my cell phone. And my own staff that I had to communicate with around the Hill, we had to call on our own cell lines to each other's cell phones.

That's not such a particularly great handicap, but on top of that, Mr. Speaker, the cell phones were jammed. The signal was so jammed with so many calls that we couldn't connect either by cell phone sometimes for hours.

Now, that's an awful lot of rejection focusing itself on an issue here that America had had the opportunity to debate since last July all the way into nearly—well, nearly into April. That's what's happened with ObamaCare.

And now, after the bill has passed—and I would remind you, Mr. Speaker, that if we would have had the bill go to the Senate for a vote and then to the House for a vote in order to qualify it to go to the President's desk for signature that turns it into the law of the land, ObamaCare could not have passed this Congress on the day that it was messaged to the President because the votes didn't exist in the United States Senate to support the bill. That was voted by other people.

And the ones that the folks voted to represent themselves, Massachusetts in particular, SCOTT BROWN was elected by generally the liberal people in Massachusetts to block ObamaCare. And there he was following through on his word to do that, except it was circumvented. And they used a rescissions policy that had never been used in a piece of policy like this before to enable that to happen. And on top of that, a promise from the President of the United States that he would sign an executive order that he would have liked to have had the pro-life people in America believe that the President of the United States can sign an executive order that would amend a bill that the Congress had just passed. That's the executive order that deals with the Stupak amendment, which was designed to shut off Federal funding for abortion that might be enabled by ObamaCare.

Now, think about what this means. Here we have a Constitution that sets