

they would pass something along those lines to make sure that the excesses of Wall Street are reined in, that there is appropriate regulation, that these exotic products don't bring our economy down again, that there is accountability, and if somebody, some big house gets in economic difficulty, that it is not in the position where the government and the taxpayers have to rush in and bail them out.

We need to make very clear that there is not going to be a taxpayer-funded bailout, and that there needs to be the kind of resolution authority or some kind of orderly method to protect the rest of the economy from a company that has gotten into trouble.

Mr. GARAMENDI. There is something I learned long ago at the University of California when I was taking an economics class, and that was the American private system of the economy was dependent upon competition, and that laws were put in place more than a century ago to eliminate concentration so that there are many, many players in the marketplace.

It seems as though we have forgotten, or at least the Republican administration in 2000 to 2008, forgot that one of the key ingredients in a free market system is many, many competitors.

□ 2030

But what happened during the decade of the nineties and 2000–2008 was a concentration in the banking industry so that now just a handful of companies, huge megabanks, control an enormous proportion of the American economy. And there's a proposal that has now been made by the Senator from, I believe, Delaware to limit all financial institutions to no more than 10 percent of the financial market, so that when they get to 10 percent, they can no longer grow. They would have to shed the business and, in that way, keep many, many players in the business. So there would be good competition and, simultaneously, create a situation in which no one bank would be too big to fail, thereby eliminating the need for a taxpayer bailout.

I kind of like that idea. It goes back to something I learned many, many years ago in an economics class about the role of competition and the need for many, many players in the marketplace. We'll see what happens with that, but financial regulation law in its final form has to deal with this issue of too big to fail. I don't want, you don't want, I don't believe the American public want to see another financial bailout with our taxpayer money going to Wall Street so they can fatten their wallets on our hard-earned money. So we'll see what happens here. We know things are coming back.

But let's not end this discussion in a down mood. If we take a look at where the American economy is going, these lines here in the red are the Bush years, and this is the unemployment rate actually growing during the final years of the Bush period so that we

were losing about 800,000 jobs a quarter in the final quarter of the Bush period. Now, when Obama came in, we see the beginning of the turnaround with the unemployment—monthly unemployment statistics changing so that, yes, the first month of the Obama administration, in January, February, it was the same as the last month of the Bush administration. But now we see a steady decrease in the number of people losing their jobs.

This is a result of three things happening. The first is the Wall Street turnaround, the Obama administration getting control of Wall Street in the early months of 2009, followed by a very courageous action taken by Congress, which was called the American Recovery Act. The stimulus bill. That began to put people back to work or keep people employed. I know that in California it was an extremely important piece of the puzzle of keeping our schools open, keeping teachers in place, and then preventing further erosion of the economy. So as that began to take hold, we began to see the number of people losing their jobs on a month-to-month basis declining so that now, in the last month, we are actually seeing the number of people employed rising—getting jobs, rising.

We still have an extraordinarily high unemployment rate. We are not even close to being home yet. So we've got a lot of work to do. Part of that work is to make sure that Wall Street doesn't ever again put at risk the job of a family, put at risk home mortgages, put at risk the American economy and, indeed, the international economy. So that's where we are headed. We've got some more work to do.

Ms. KILROY. We do have more work to do.

Mr. GARAMENDI. If you would like to wrap this up from the perspective of Ohio, one of the States hardest hit for many, many years now, but a State that's coming back with leadership such as yours.

Ms. KILROY. You're correct that things are improving and also correct that we're not out of the woods yet. The Recovery Act in Ohio, as in your State, helped keep teachers; police cadets were able to get another class going in the city of Columbus, Ohio; keep firefighters on the job, keep teachers teaching in schools.

We also put money in the pockets of hardworking Americans with the biggest tax cut in our history to make sure that middle-class families benefited from that Recovery Act. People who were unemployed or on food stamps also got a raise—not the kind of raise that Wall Street gets, but they got a raise. We know that that money goes directly back into the local economies. That helps build that path to economic recovery.

We'll continue to focus on jobs, on our economy, and on holding Wall Street accountable, and passing a strong Wall Street regulation bill. I look forward to working with you on that.

Mr. GARAMENDI. Well, there's been some very good work done, but the job is not finished. We're seeing a stabilization of the American economy. We've got a long, long way to go. One major piece of that is the work that is now going on in the U.S. Senate. I beg them to send us back here to Congress a very strong regulatory bill on Wall Street. Rein in the excesses. Provide the transparency so that everyone can see exactly what the product is and how the game is being played. Push the derivatives out of the bank business so that that's all separate; the collateralized debt obligations, transparent. Regulate it. Regulate the derivatives, and make sure that we never get back into this again.

Maybe in the next month or so we will finish this critical piece of work. It's, hopefully, going to be done with the support of the Republicans. We know that for a long time they tried to stall it here in Congress, but, fortunately, the Democrats were able to put our bill out, send it over to the Senate. Now, with the Republicans in the Senate backing away from their support of Wall Street, hopefully, we'll get that bill over here; we'll finish this job and do what is absolutely necessary for the American economy and, indeed, for the world's economy.

So, with that, let's let this night pass and we'll get back to work tomorrow morning.

#### HEALTH CARE BILL REVISITED

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 come to the floor tonight for the leadership hour on our side to talk more about this health care bill that we passed 6 weeks ago, because it was a pretty sweeping piece of legislation. We passed it kind of quickly. A lot of people may not have understood everything that was contained therein or the implications of the things contained therein. So from time to time it is worthwhile to study a little bit about what we did and how we got there and maybe why it was done, and, if anything, a look at what is ahead over the horizon for the people of this country as they begin to adjust to life with this bill.

Let me just say at the outset that I did not vote for this bill. I do not approve of this bill. The process was flawed. In fact, the process was absolutely toxic to this House, to the United States Congress—in fact, to the country at large. Never before has a piece of legislation this sweeping and with this sweeping in scope and its impact on the daily lives of the American people, never before has a bill this large passed with only the support of one side of the aisle. In fact, never has a bill like this passed that did not at least have some measure of popular

support. But the bill passed with a great deal of difficulty because it did lack popular support from the American people.

Now, 6 weeks after the passage of this bill and the bill signing ceremony down in the East Wing of the White House, now 6 weeks later, if anything, opposition to this bill has hardened. For that reason, I believe this bill ultimately will have to be repealed, ripped out root and branch, and then get on about doing the things that people told us they wanted us to do. Had we bothered to listen during the summer town halls of August of 2009, perhaps we could have delivered something meaningful for the American people. Instead, we decided to push again with a very partisan agenda.

And let's be honest, Madam Speaker, the only thing that was bipartisan about this bill was the opposition, because, indeed, at the end of the evening, when we passed this bill, you had some 35 or 36 Democrats join 178 Republicans in voting against this bill. There was no bipartisan support for this bill either in the House or over in the other body. In fact, the bipartisan nature of this bill was the opposition. The American people are now subscribed to that notion as well.

What is ahead for us? Well, there are some court challenges that attorneys general in various States—I think the last count, it was 20 or 21 States—have said that they are going to register challenges to this bill. That is a significant number. I suspect there will be more over time. The concept of negating the bill through a Supreme Court challenge is one that is far from certain, but it is certainly worth the effort that the attorneys general across the country are putting forward because, again, the bill, at its very heart, is so flawed and so toxic.

If you go back and look at the things that led up to the passage of this bill 6 weeks ago, you really have to go into last year and deep into last year to find where the roots of the problem lay. It almost goes back to a year ago last February, with the passage of the stimulus bill.

The stimulus bill famously passed without any Republican support. All of the pundits and commentators around the town were absolutely astounded that not a single Republican would vote for the stimulus package. But it was in those negotiations, such as they were, the meetings that occurred down in the Cabinet Room at the White House, where the Minority Whip, ERIC CANTOR, tried to bring some ideas to the table about what this stimulus ought to look like and what the Republican position was on the stimulus bill. And it was, Wait, not so fast. We won. We won the election. What you all say here doesn't matter. It was really that comment that set the tone for balance of 2009.

Now, there were opportunities where both sides could have come together on some aspects of what ultimately was

included in the health care reform bill. I will admit those opportunities were few and far between, but they did exist. Indeed, even individuals such as myself, so-called backbenchers, reached out to the other side, both to the transition team and to the Democratic leadership of my committee, and said, Look, health care is important to me. I didn't give up a 25-year medical career to sit on the sidelines while you guys did this. Let's talk about the areas where there perhaps can be some common ground. But those offers were never seriously entertained by the other side. They knew what they wanted in their health care bill and they wrote them exactly as they wanted them.

Now, we finally got a chance to see the health care bill about the middle of July last year. It came over the transom late one night with a note attached to it that said, Read fast. We're going to mark it up in committee in a day or two. Indeed, that's just exactly what happened.

Now, Madam Speaker, I ask you to think back to a piece of legislation not that many years ago, the Clean Air Act, which passed in the early 1990s; sweeping legislation that changed things for a lot of people in this country. Arguably, there were good things in the bill. Arguably, there were things that were contentious in the bill. But there was, I'm told, in our committee, the Committee on Energy and Commerce, an 8-month markup on this bill. Legitimately, members of the committee hated each other at the end of that markup, but it was important. It was important for people to see the process. It was important for people to understand that both sides did play a role in crafting this very, very complex piece of legislation, and the proof has been that, over time, the bill has delivered on what it was intended to do. Indeed, arguably, the Clean Air Act has improved the quality of air in many locations around the country, and the effects were significant as far as businesses were concerned, but not crippling, and people were able to make adjustments to the legislation after it was passed. And, arguably, it has been a difficult but good process for the American people.

Now, that is an example of how things can work. It wasn't easy. It took months and months and months to do it, but ultimately it did have support from both sides of the aisle. Contrast that to the health care bill. The three committees that worked on this bill—my committee, the Committee on Energy and Commerce, also the Committee on Ways and Means and the Committee on Education and Labor, those three House committees worked on this bill. We actually had, by comparison, a lengthy markup in Energy and Commerce. We had 8 days of markup. Now, 4 of those days we were in recess subject to the call of the chair because the chairman of the committee was trying to get his Blue Dogs in line

after he lost an amendment vote early in the process. But, nevertheless, we did have 8 days in committee to work on the bill.

□ 2045

The other two committees had 24 hours, 24 hours to work on this bill. At the time it seemed like a big bill—it was 1,000 pages long. That's a big bill. It got bigger when it came back to the House in the fall and then got bigger still after it left the Senate. But, nevertheless, last July, the bill was 1,000 pages long. And to work through and mark up a 1,000-page bill probably was going to take longer than 4 working days—which is what we got in our committee—but it darn sure was going to take longer than 24 hours, which was the length of time that it was allotted in Ways and Means and the Committee on Education and Labor.

The bill was amended in the committee work this summer by all three committees. Interestingly enough, some of those amendments were Republican amendments. Interestingly enough, after the bill was wrapped up, after the work was wrapped up in the committee process, the bill left the committee and went over to the Speaker's office. There it grew from 1,000 pages to 2,000 pages.

But significantly, while the bill was doubling in size, it was shedding pages that were the past amendments that were bipartisan at the committee level. Most of the amendments that were passed in the committee never saw the light of day when the bill came to the full House floor last fall, even though the bill was substantially larger, largely because of input from folks down at the White House who worked hard with the Speaker's office for several months to get a compromise package that they could bring to the floor to get passed. But most of those Republican amendments were, in fact, deemed to be excessive and expendable and, indeed, they somehow lost out along the way.

Now, one of the things that was really striking during the course of the year and several months that we worked on this bill was just about 1 year ago. There were six groups that met down at the White House along with members of the administration to talk about things that they might do to get a health care bill passed. So in an effort to show good will toward the new administration, America's Health Insurance Plans, the Pharmaceutical Management Association, PhRMA, my AMA, the American Medical Association, the American Hospital Association, Medical Device Manufacturers, and the Service Employees International Union all met down at the White House and decided that there were things that they could bring to the table and give up as far as financing of this complex health care bill.

I will never forget: They went into the Rose Garden and had a huge press conference where they described \$2 trillion in savings that had been agreed to

by these different six groups, \$2 trillion in savings over 10 years in things that were going to be given up, and this was going to allow the House to pass or the Congress to pass a health care bill because now everyone's on the same page and everyone's working together. There's just one problem: No one from the administration ever communicated to at least those of us in the rank-and-file on the legislative end what was contained within those bargains, what was contained within those deals. In fact, beginning in September, when I began to question and ask, can we see what those deals were? Can we see the copies of the emails that were exchanged? Can we see the notes or the minutes that were transcribed during those meetings when all of these agreements were made to produce those \$2 trillion in savings? And we didn't write anything down. Now, Madam Speaker, I ask you, \$2 trillion in savings, which was on the table—at least according to the President and the White House in May and June of last year—and no one wrote down a single word as to what those deals were?

And the problem is, it kept surfacing. As we would deal with the bill in our committee and while they would deal with the bill over in the Senate, from time to time something would come up and they would say, oh, no, wait, you can't tax the hospitals for this because that wasn't part of the deal. Well, what was part of the deal? And why can't we know what was agreed to down at the White House so we can at least, if nothing else, even if we don't agree with what happened, but so we can at least work around the deals that were crafted down at the White House?

One night it was particularly stunning. Senator MCCAIN, over in the Senate, wanted to introduce an amendment that would have allowed for reimportation of prescription drugs. Now, that is not a concept that I support. I think there are real safety issues surrounding reimportation, but the Senator should have the right to offer his amendment and argue the merits of his amendment. People on the other side should have the ability to argue the merits of their case and then have the vote and make the decision. But to stop Senator MCCAIN in the middle of his discussion and say, wait a minute, you can't do that because we had a deal, well, people recognize that's just not right, that's not the way things should be done.

It was particularly galling because the President, when he was running, when he was campaigning for the highest office in the land, repeatedly said that this was going to be a different process, his would be a different presidency, he would bring people together. It was going to be the age of postpartisanship and people with good ideas would be welcomed and everyone would be around a table. And it would be transparent. It would be covered on C-SPAN so everyone would be aware of who was on the side of the American

people and who was on the side of the special interests. This was the promise that was made to the American people during the course of a presidential campaign. And I recognize that sometimes things are said on the campaign trail, and I recognize that sometimes a promise is made that becomes very, very problematic or difficult to deliver, but this was such a central part of the argument.

Let me quote to you from what the President said when he was a candidate for office. He said, quoting now, "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." Well, that's exactly right.

Remember a few minutes ago I said that part of the difficulty in passing this bill was it never enjoyed popular support. It's a big bill, there's some tough concepts contained within this bill. It's not something that people are just going to embrace unless you bring them along and educate them as part of the process. But although it was promised that that would happen, that, unfortunately, never came into being. In fact, after getting frustrated with being stonewalled by the White House in September and through the fall, in December I introduced in our committee what's called a Resolution of Inquiry. A Resolution of Inquiry means that after it's filed, the committee, after a certain number of days, is required to bring it up and have a legislative hearing on the resolution. If it passes, obviously the requests go down to the White House.

Now, Chairman WAXMAN felt that, in fairness, some of the things for which I was asking would be protected by executive privilege, and not wanting to be in a protracted fight that might well have resulted in an affirmation of executive privilege, he still recognized that as a member of the committee, as a member of the legislative branch of government I should have access, that other committee members should have access to some of the things we were requesting. So about 6 of the 11 things I requested, the chairman said that's reasonable, you should have those things. And he and Ranking Member JOE BARTON sent a letter down to the White House counsel and said we would like for you to produce this information for the committee and for the Congressman who's filed the Resolution of Inquiry because we feel this is information that should be available.

Now, unfortunately, while the White House may argue that they complied with that request, all we have ever gotten have been press releases and reprints of Web pages, never the depth of the documents that was asked for in the Resolution of Inquiry. We are continuing to push that, but here we are now in the early part of May—again,

the meetings were held 1 year ago in May and June of 2009, the initial request went out in September, the Resolution of Inquiry was filed in December, it was brought up in committee at the end of January, and clearly this thing has moved with glacial speed. But tonight, Madam Speaker, I want to reassure you and Members of the House of Representatives—and, in fact, the White House—that I am going to be tenacious on this, I'm going to be relentless. We do need to see that information; it should be made available to the legislative body.

And please understand, my beef here is not with the American Hospital Association, the American Medical Association, PhRMA, the insurance companies, or anyone else. Certainly, they have the right and the obligation to go down and negotiate and make arguments in favor of their position and the clients that they represent. I have no problem with that. Where I have the problem is this all being done in secret, all being done behind closed doors, no paper trail to trace and hold anyone accountable. And yet, when we get to the work of writing the legislation, not so fast, we have a deal, you can't do that, we have a deal. Members of the legislative body should have access to the same information that members of the administration had access.

Now, this bill passed in March, but it was the bill that passed the Senate on Christmas Eve, not the bill we passed out of committee in July, not the bill that doubled in size and came back to the House in late October and then was passed in early November. Those aren't the bills that we now talk about. There were some interesting things in those bills—a lot of bad, a little bit of good—but those aren't the bills that are actually the point of discussion because when the Senate took up its health care bill, it decided to do something different from what the House had done. And that's okay, the Senate is a legislative body in its own right, and they certainly have the obligation and it is correct for them to do their work the way they see fit. And under normal circumstances, the House bill and the Senate bill—if in fact they're different—would be joined together in some type of conference process, and I'm sure that's what everyone over on the Senate side thought would happen, but in reality what occurred was the Senate picked up a bill that had already been passed by the House, H.R. 3590. If you'll remember, famously, that was the health care bill number.

Now, that was a bill that the House passed 1 year ago in the late summer or early fall of 2009. It was a housing bill when we passed it on this side. We passed it and sent it over to the Senate to await further work on a housing bill. But it was picked up on the Senate side, the housing language was all stripped out of the bill, and the empty shell then became the vehicle for inserting the health care language. And that's exactly what occurred between Thanksgiving and Christmas of 2009.

But the important part of this is, it was a bill that had already passed the House. And when it passed the Senate, all that was necessary to do, it didn't have to come back to a conference committee, you didn't have to iron out any differences, you simply could bring it back to the floor of the House of Representatives, ask the question as was asked here late in the night of March 20th, ask the question, Will the House now concur with the Senate amendment to H.R. 3590? And that amendment of course switched it from a housing bill to a major sweeping piece of health care legislation over 2,700 pages long. But the House did agree to the Senate amendment, and as a consequence, that bill left the House of Representatives late that Sunday night, zipped the quick trip down Pennsylvania Avenue and was signed into law on Tuesday, and could move just that quickly because of the nature of how the bill was constructed and how the bill came to be in the Senate and how it was passed in the Senate.

This became important because, deep down inside, I don't think Members of the other body, as they put this health care bill together on Christmas Eve, I don't know that they had in the uppermost part of their mind, how do we get the very best health care policy written and included in this bill? They were more thinking about an arithmetic problem that faced them: How do we get a bill that will get a "yes" vote from 60 Senators so that we can cut off debate and pass this bill and get out of town before Christmas? And oh, by the way, a big snowstorm was bearing down on Washington on Christmas Eve and there was a lot of anxiety in the other body, a lot of reason to want to get things done and get things wrapped up for the end of the year and then come back and smooth out any rough edges and put things together because, after all, we always go to conference on these things. And even if we decided not to go to conference, we would what's called "preconference," where things would just be decided and the two bills put together and a finished product could then be passed by both bodies.

But when Massachusetts held a special election and the Senate seat that had been held for years and years and years by a Democrat was now suddenly won by a Republican, the whole 60-vote majority thing was kind of called into question and it was not certain that the Senate would have the 60 votes necessary to cut off debate because the person who won that race on the Republican side in the special Senate election had campaigned on the notion that he would not be the 60th vote to push this health care bill across the finish line, this health care bill that many Americans had looked at and rejected. So a Senate race was held and won by someone who said don't count on me to be your 60th vote to get this thing passed.

So now we've got an entirely different equation and an entirely dif-

ferent arithmetic problem here on Capitol Hill. You've got a Senate-passed bill, you've got a House-passed bill.

□ 2100

They are vastly different. But the leaders on both sides said, you know, I just don't know that we can get this done in a conference committee.

Now, it was also a big uphill climb to get Democrats on the House side to agree to vote in favor of the Senate health care bill. And with good reason. The House had worked long and hard on its health care product. And although I didn't agree with the policy and I didn't agree with the legislation as written, it was still a far better product. It had nowhere near the number of drafting errors, outright mistakes, and earmarks in it that the Senate bill did.

So the Senate bill was thrown together quickly. And on top of that, it was just riddled with errors. Who wants to put their name next to a "yes" vote for a product like that when we got a health care bill on the House side that while it might not be perfect, and certainly I didn't support it, still the product itself you could argue was a much more evolved product than what had come out of the other body.

But the arithmetic problem was what it was. And it was felt that the only way to get a health care bill passed in this first session of the first term of President Obama was to pick up and pass the Senate bill. I will always remember being on a radio show the Wednesday morning after that special election in Massachusetts, where the question was posed, "Do you think that the Democrats have enough votes on their side to simply pass the Senate bill?" And I said, "No, I do not." And someone broke into the radio show and said the Speaker of the House has just asserted that she does not have the votes to pass this bill on the House side. And I concurred. I said I think that's exactly right. This bill contains so many errors that no one is going to be willing to put their name to it.

But over the 6 weeks that ensued since that time, there were multiple discussions that resulted in a number of people on the Democratic side of the aisle who had originally been a firm "no" on the Senate bill beginning to waver and then saying, "well, maybe," and then ultimately they ended up being a "yes" vote for the bill. And just by the barest of margins they did get an affirmative answer to the question, "Will the House now concur with the Senate amendment to H.R. 3590?"

Now, drafting errors. The bill H.R. 3590 is replete with drafting errors. We are likely going to be encountering problems in the drafting of this new law for years and years and years to come. Members of Congress were surprised to find in some of the published reports in the little newspapers that circulate up here in the Hill that in the days following the passage of the bill we had actually canceled our own

health insurance and the health insurance for our staff because the way the bill was drawn, the way the bill was drafted was that Members of Congress and their staff will be required to buy their insurance in one of the State exchanges.

The problem is that the State exchanges are not actually set up until 2014. So as it stands right now, although a health insurance premium is still deducted every month, right now it's not clear, if indeed with the bill having been signed into law and that being one of the things that was going to take effect immediately, just what the practical effect of that is. And oh, by the way, and just a little ironic twist to that, members of the committee staff are exempt from that, members of leadership staff are exempt from that requirement that they buy insurance on the State exchanges, members and staff of the administration down at the White House are exempt from that requirement, as are the political appointees at the Federal agencies.

So, again, it does seem somewhat ironic that the principal people involved in drafting this legislation, that would be committee staff, leadership staff, staff from the White House, and staff from the political appointee side of the Federal agencies, all of those groups, which were essentially the ones that wrote this legislation, exempted themselves from this requirement that they buy insurance in the State exchanges. Members of Congress and their personal staff are going to be required to do that.

Again, this is something that is certainly fixable at some point. It is simply going to require the will to do so. You do hope that no one gets into trouble before that fix can occur. And of course it's very difficult to generate much sympathy with the American people, who feel that Congress probably shouldn't be covered by insurance when so many people are uninsured in the country anyway. And as a consequence, that now is a talking point that Members of Congress do have because we did say, "If it's good enough for the American people, it's good enough for us as well."

Another part of the bill that's not widely known, but it is significant, there has been a phenomenon in recent years of what are known as physician-owned hospitals. And there are some Members of Congress who do not like the concept of a physician-owned hospital because they feel it is an inherent conflict of interest. On the other hand, I will tell you that no one knows better how a hospital ought to run and what a well-run hospital looks like than the physician who uses the hospital every day of his or her working life. And I will also tell you there is nothing quite like the pride of ownership in wanting to deliver a first class product for your patients.

Physicians who are in an ownership position of facilities, as long as there

are some parameters that are followed, physicians who are owners of those facilities want their facilities to be the best in the area because that's the way doctors generally are. We are intensely competitive, and we always want to be first, and we always want to do things for our patients that are first class.

But written into the bill is language that although it will allow the continued existence of physician-owned hospitals that were in existence on the day the bill was signed into law, it does not allow for the expansion of these facilities. So no new beds after March 20.

But you have some situations, and I have one back in the district that I represent in north Texas, in fact I just went to the ribbon cutting on Friday for this beautiful new medical facility for the people in Flower Mound, Texas, and they are justifiably proud of this new facility that was inaugurated at the end of last week, but here is the problem. Although the hospital, because it was far enough along in the development process at the beginning of the year when all the bills were being written and passed, because it was far enough along, it is allowed to be licensed. But because of the very explicit language in the bill, it can be licensed for no more beds than those that were in operation on March 20, the day the bill was signed into law.

Well, as the hospital was still just shy of completion on that date and had no operating beds, they are now stuck with a situation where they have a hospital which has a license and a Medicare number, but is licensed for zero beds because no beds were in operation on the day the bill was signed into law. Again, that is one of those problems that can be fixed. It is a technical correction. But it does require recognition by the Federal agency, Health and Human Services, the Center for Medicare and Medicaid Services, as well as tying up a good deal of staff time and a good deal of time on the staff of the medical company that operates the hospital to try to get everyone on the same page with this and get this problem ironed out. Because at least for right now they feel like they have been left with a fairly difficult position in that they are open and generating bills to pay, but they have no way of generating the income to pay those bills.

□ 2110

The actuary for the Centers for Medicare & Medicaid Services produced a report just after the health care bill was signed into law. We are all familiar with the arguments that were going on as the bill was being debated. The Congressional Budget Office said that the bill was going to cost just under \$1 trillion over 10 years' time. In fact, there was the very often repeated line that the bill was going to save over \$100 billion in the first 10 years of its existence because of savings that were going to occur from Medicare.

Now, the Congressional Budget Office does work for the Congress of the

United States. The actuary for the Centers for Medicare & Medicaid Services actually works for the Federal agency. The actuary over at the Centers for Medicare & Medicaid Services actually had a different read on the cost of this bill and on the likely savings generated from this bill.

According to some news accounts, the health care report generated by the actuary at Health and Human Services was given to Secretary Sebelius more than a week before the health care vote. If that is true, then officials within the Obama administration, perhaps even the President, himself, continued to sell their plan as a cost reducer when they knew that costs would actually rise under the plan.

According to the report: The reason we were given was that they did not want to influence the vote, said an HHS source, which is actually the point of having a review like this, wouldn't you think?

Well, that is exactly right. If you've got information that significantly impacts the cost or the savings of a piece of legislation like this, yes, it does seem reasonable to make that information available prior to the vote because it might influence whether or not the vote actually was in favor or opposed. Many people were concerned about the cost of this bill, but they were reassured by statements by the Speaker of the House of Representatives, by the President, and by the majority leader that the bill's costs were under control and, in fact, that the bill was delivering a cost savings.

Imagine the surprise when the actuary produced a report that said, in actuality, the bill will cost significantly more than what the Congressional Budget Office outlined and that, in fact, the purported savings in the bill will not materialize.

Now, we have had a lot of discussion on the effect of this bill on both large and small businesses. Small businesses are, obviously, concerned about the effects of the fines that they might be required to pay if they either do not provide health insurance or if too many of their employees seek subsidies in the State exchanges, because then the Federal Government will come in with a fine for those businesses.

I think of entry-level-type positions that may be affected by the additional cost burden put in place by putting these fines on these relatively small employers. I have heard from a number of small employers in my district. Primarily, these are people who employ individuals at small restaurants and at fast-food franchises. Again, we are talking about entry-level-type jobs that may now be reduced in number because of the overall increased cost that is going to come about as a result of the fines that might be levied if too many of their employees seek subsidies under the State exchanges.

Additionally, you have the effect on large businesses. Large businesses may, in fact, look at this through an en-

tirely different lens: Okay. We are providing health benefits to our employees now. It costs a lot. The costs are going up every year. The Senate and House of Representatives just passed this large health care bill, but it did nothing to contain costs. Rather, it added additional requirements to what type of insurance I am to provide my employees. So, in looking on the balance sheet at the cost of insurance, it is many, many millions or, perhaps, billions of dollars for a large employer, and the cost of the fines is significantly, significantly less than that cost of insurance.

You hope that employers will do the right thing and will say, Well, it's still important for my employees to have this employer-sponsored insurance; but in order to maintain whatever sort of competitive edge or margin a business is required to maintain, not every employer may feel that way.

One company may say, Look, I can offload a lot of cost by just simply paying the fine for not having insurance for my employees, which is a significant shift in dollars and, in fairness, a significant savings to the employer's bottom line. An employer can offload the cost of relatively expensive employer-sponsored insurance and can now just pay the fine and let the company's employees compete for insurance policies in the State exchanges as those are set up.

This is not going to happen overnight. A lot of these things won't be occurring until 2013 or 2014, but it is important for people to be aware of the types of changes that are pending out there. Perhaps there will be some room for modifying some of these things. Perhaps there will be a way to remove some of the more onerous things that are facing us in this bill. Perhaps there will even be a way to remove the bill, itself, and to get back to fixing those things that need to be fixed in the first place.

You also had members of the business community—the large employers—telling Members of Congress and leadership on my committee, Look, be careful because we are going to incur some significant costs from what you're doing in this bill. It may be necessary, and it may affect our bottom line.

You did have companies restate projected earnings shortly after the bill was passed. The chairman of my committee was upset by this and said these companies are just doing this to embarrass the President at the time of the bill signing, so he sent out the word that all of these CEOs from these companies who had restated their earnings would get the opportunity to come to our committee and to tell us all about why they thought it was necessary to restate earnings on what should have been a national day of exultation when the President signed the health care bill. Instead, they were putting out press releases about the fact that they were going to have to restate earnings.

It turns out that the restatement of earnings was because of requirements from the Securities and Exchange Commission, requirements which primarily said, if a company is going to have a significant change from what it had previously published as its earnings projections, it is obligated to be public with those and to tell people what the restated earnings are and why they are restated. So, in fact, the heads of these companies were just simply doing what they were required to do under Federal law with the Securities and Exchange Commission.

As a consequence, when that was explained to the committee, this hearing that was to occur on April 21 was postponed, and it was postponed indefinitely but not before the word sort of went out: Don't you dare cross this administration because, if you do, you may get to come to our Subcommittee on Oversight and Investigations on the Committee of Energy and Commerce and explain your actions to members of the committee and to the American people at large because, of course, these proceedings are transparent and are covered by C-SPAN.

The health care costs are likely to go up significantly for large employers. Remember, there is a separate new tax on medical devices. Medtronic warned that new taxes on its products could result in layoffs of 1,000 workers. Their accounting also estimated there would be thousands of other layoffs and consumer cost increases in the ancillary businesses—perhaps in the hospitals, perhaps in the centers that provide those types of devices.

Those taxes are going to be levied, but it's not likely that those taxes are going to come out of the CEOs' salaries. It is not likely they are going to come out of the lobbyists' salaries. It is more likely that they are going to come out of the costs to the consumers of those medical devices, and many of those costs will just simply have to be borne by the hospital or doctor's office. The way things work in the medical world is, if you have a contract with an insurance company to provide a type of service, you will not be able to go back and append, Oh, by the way, I've been asked to pay this 2.8 percent tax on every syringe I use and on every class 2 or class 3 medical device that I use in my office, surgery center, or hospital. That tax will likely, just simply, come out of the bottom line of that physician's office, of that hospital, or of that surgery center.

There are a couple of things which I think are just worth talking about. There have been some statements, some affirmations, that have been made about the health care law that was signed in March of this year. Over and over again, we heard the assertion, If you like your plan, you can keep it.

Well, I think, every day, as more and more is found out about what this bill actually means as it is implemented, that statement becomes less and less true. I rather suspect, by 2014, when the

full implementation of this bill is occurring, that statement will be nothing more than a distant memory. Over and over again, we hear, To avoid additional costs and regulations, employers may consider exiting the employer health market and consider sending employees to the exchange, which is just as I was discussing a few minutes ago.

□ 2120

Larger companies are looking at this and saying there are going to be significant costs with continuing to provide this insurance. When Congress passed the law, they did nothing to hold down the cost of health care, nothing to hold down the cost of insurance, and what they have done instead is complicate things, and we can now get out of it by paying a fine, which in the long run may be a great deal cheaper to pay that fine or tax or whatever you want to call it and let our employees find their insurance in the State exchanges.

The other affirmation that's been made that again is being found to be less and less accurate is that this health care law will lower costs. And I think we have already talked about this and I think we see it over and over again that employers are already likely to pass new costs on to their employees. Health care coverage may go up in cost due to shifting of increased taxes and fees from the provider and insurance industries to the employers' employees. So that is, again, another one of the cost shifts that are likely to occur under this law and gives lie to the statement that this law will lower health care costs. In fact, the only place where this law lowers costs is by rationing care in Medicare, and as a consequence, people are going to be less satisfied with the cost containment measures that have been put forth.

There is an unelected, unaccountable body, the Independent Payment Advisory Board, which was created in this law, that is going to be convened to give recommendations to Congress as to how to hold down the costs of Medicare. And again these are likely to come in the form of pure cuts to Medicare. Congress will then have the responsibility to vote those packages of cuts up or down. We will not be able to modify, amend, or append those discussions. It will simply be an up-or-down vote. Historically, Congress, when given those opportunities, has declined to cut costs in those areas. Witness the physician fee schedule that comes up every—it used to be every year or two; now it comes up every few months. And Congress invariably stays those cuts that were to be enacted, and as a consequence, there is no holding down of health care costs. Nothing was intrinsically built into the bill itself or the law itself that would intrinsically work to lower costs other than cuts that will be forthcoming through this Independent Payment Advisory Board. And it's ex-

tremely problematic, number one, if any of those cuts will ever be, in fact, ratified by Congress, and if they are, I think people will find that that is something that they really didn't count on and really didn't plan on. And then the third area where the information that was put forward as the bill was being discussed, that this health care law would improve coverage, in fact, the increased taxes and regulation will lead to dropped coverage and benefits, and, again, we've already discussed that in some detail.

But those are some of the things that were marketed as truths. And I don't remember how many times I heard, "If you like what you have, you can keep it." But, again, I think that phrase will be found to be inoperative as the effects of this bill become more and more apparent.

What's ahead? What's down the road? This was a very long bill, a very complicated bill. Is the work finished now that Congress has taken its final vote and sent it down to the White House for the signing ceremony? Is the work finished on this bill or are there still parts that have to be worked out? And the answer is the work is just beginning on the second chapter of this bill. And I would encourage people who have an interest in this, a Web site that I maintain that just simply deals with health care policy, [healthcaucus.org](http://healthcaucus.org). We had a forum today talking about what's ahead with some of the rule-making and the proposed rules that are going to be coming forward out of the Centers for Medicare and Medicaid Services, and although today we were talking about those rules as it affects the health information technology sector, the same concepts are important as we begin to get further and further down the road at the agency level with this health care bill. Over a year ago when we passed the stimulus bill, the information technology language was included in the stimulus bill. They spent the last year writing the policy and the rules and regulations that will cover the rollout of the health information technology funding as it becomes available, and what we found in January was the rule that was proposed by the Centers for Medicare and Medicaid Services in many ways was so inflexible. All 23 benchmarks had to be met simultaneously, and it's just not the way the world works, and very few people were going to be able to do that. So for the bill to function as intended, that is, provide additional funding for hospitals and doctors' offices to get this newer technology up and running sooner, to sort of jump-start it, if you will, the net effect of the rulemaking that was released by the Centers for Medicare and Medicaid Services in January was that, in fact, it was so draconian that very few hospitals and providers were actually going to be able to take advantage of it. So the intent of the bill that was passed as part of the stimulus bill to get this information technology up and running and reward



early adopters and encourage people to come along and get these things set up in their offices, it's going to be so difficult to comply with the rule that many people will look at that and say it's just not worth the effort. You can keep the additional funding that you were offering, but I simply cannot go there with my practice or my business.

Well, we are getting some—at least the Centers for Medicare and Medicaid Services is willing to listen to what we have to say. Two hundred and forty-eight Members of this House, both Republicans and Democrats, signed a letter to the Secretary of Health and Human Services that said, please, let's try to work on this and get a more flexible and workable product out there into the hands of people. And the reason this is important is because this is one simple little rule and perhaps the first one to come out of—really not the health care bill, because it came out of the stimulus bill, but it's kind of a harbinger of things to come. There is a flood of regulations, I mean a flood of regulations and rulemaking that is going to happen over at the levels of the Federal agencies. Health and Human Services to be sure. Its subset, the Centers for Medicare and Medicaid Services, which only just recently announced their designated head of that agency, has been without a political appointee at its head since Inauguration Day. So now we have a name that has been offered up by the administration, but that individual still has to go through the Senate confirmation process, and it's anyone's guess as to how soon Dr. Berwick will be seated as the new head, the new administrator, over at the Centers for Medicare and Medicaid Services. In the meantime deadlines are coming literally at the speed of light over at the Federal agency. Let me just give you an example of that.

Part of the bill, part of the law, that was signed by the President was that the Secretary of Health and Human Services was required to publish on its Web site by last Friday a list of all of the authorities provided to the Secretary under the overhaul of the law, and that is section 1552. And what the agency did, rather than go through the bill and compile that list, as they were required to do by law, what it appears that they have done is just simply reprinted the table of contents from the bill, H.R. 3590. They just simply reprinted the table of contents from the bill. Now, you can go to the Web site of Health and Human Services and look at this document for yourself. It's 18 pages of relatively small type of all of the requirements of the Secretary that are to be performed under this law.

□ 2130

Although at this point it does appear to be simply a reprint of the table of contents, it does give you a sense of how daunting this task is ahead for the Secretary of Health and Human Services.

Section 1003, ensuring that consumers get values for their dollars; sec-

tion 1002, health insurance consumer information; section 1004, the effective dates; section 1102, reinsurance for early retirees; section 1103, immediate information that allows consumers to identify affordable coverage options; section 1105, the effective date of same.

This thing goes on and on for 17 or 18 pages, and if anyone is interested, I do encourage you to go to the Web site for the Department of Health and Human Services and have a look at this for yourself. Don't just take my word for it.

Now, an even larger and more daunting document is that prepared by the minority staff on the Committee on Energy and Commerce, and this is available at the Committee on Energy and Commerce, up on the Web site. You do have to click on the minority side to see this, but it is the health law implementation timeline.

This document, again, relatively small font, but it is 53 pages in length and goes through in painstaking detail what is going to happen sequentially as a consequence of passing this bill and signing it into law 6 weeks ago.

They start out in 2009, the events that were to occur prior to the date of enactment, things that affect Medicaid, Medicare, Indian Health Service, and then concludes way down the road in 2020, January 1, 2020, the Medicaid start date for States to pay 10 percent of the cost for providing health care coverage through Medicaid to people made newly eligible under the bill. The Federal taxpayer pays the remainder of the cost.

A lot of information is contained therein, and for people who have an interest in what the implementation of this bill is going to look like, people who have an interest of what the timeline looks like, people who have special concerns about, hey, I think there is something in that bill to help me, but I'm not sure when it kicks in or when it starts, I encourage you to go to the Web site and look at the bill. If you decide to print it out, do bear in mind there are over 50 pages that are going to churn out of your printer after you click the print selection on the file. But I think it is important that people become familiar with this.

Again, we passed that bill 6 weeks ago. That does not end our participation, the agency's participation, the White House's participation, and certainly doesn't end the impact on literally every American alive today and those who will be born in the generation to come. They will all be affected by things that are going to be happening, particularly things that are going to be happening at the agency level, Health and Human Services, Center for Medicare and Medicaid Services.

The Office of Personnel Management, a very small Federal agency that most people have never heard about, but the Office of Personnel Management is essentially going to set up the public insurance, which is going to become the de facto public option, which many

people thought was not even included in the Senate bill, except it turns out that it probably was. And it won't be called a public option, it will be called a nonprofit under the exchange set up at the Federal level. But, nevertheless, the intent and the effect is identical to what was being talked about last summer as the public option. Well, that is going to be administered through a small Federal agency, most people have never heard of it, the Office of Personnel Management.

And the Internal Revenue Service, for crying out loud, is going to have a role to play in the implementation of this legislation. How are people going to be made to buy insurance? How is a mandate going to be enforced? Well, it will be up to the tender mercies of the Internal Revenue Service to figure that out.

Now, it may not be as draconian as putting someone in jail for non-payment of taxes, but it certainly could be garnishment of a refund check that someone thought that they were getting because they had overpaid their Federal income taxes during the year. But if they don't have proof of insurance, that may be something that the IRS will not be returning to them, but will be using to offset the cost of providing them insurance in the exchange, because we will have the individual mandate, unless the Supreme Court agrees with the 20 or 21 Attorneys General across the country and says that provision is unconstitutional.

I think one of the big travesties in the passage of this bill, we do have a problem already in Medicare. We have a problem with funding Medicare. We do have unfunded liabilities.

One of the big problems we have in Medicare is that patients arriving into Medicare, patients who are on Medicare and change location and try to find a physician who takes Medicare, are finding it increasingly difficult to get a physician to take on their care or their case.

The problem has been historically over the years we have decided that one of the ways that we can save money in the Medicare system is to ratchet down reimbursement rates for providers. That has happened, and there is an automatic formula that requires that to happen every year.

Right now, doctors are facing what is called a funding cliff of a little over 20 percent reduction in their reimbursement rates. That will kick in the end of May. We have done some stopgap things. We go right up to the edge and a little bit beyond, and then we do something at the last minute to keep them from going over the falls into the abyss. But right now the abyss does exist, and it is very real, and it is the end of May.

There is another bill that would fix things for a little bit longer, to the end of October. But that is right before election day, and who wants their doctor to take a 20 percent reduction right before election day?

These are things that we have historically punted, and we did when our side was in control as well. There was a real opportunity to fix this in this bill, and for whatever reason, for whatever reason, the Democratic leadership and indeed the American Medical Association decided to take a pass on that.

There is a lot more that is contained in this bill. I will be back to the floor from time to time to talk about it over the coming year or two or three or four or five, however long it takes.

Again, remember, the principle behind this is to kill this bill, root it out, rip it out, repeal the bill, and then get on to fixing the things we should have fixed in the first place.

#### IMPORTANT ISSUES FACING ALL AMERICANS

The SPEAKER pro tempore (Mrs. HALVORSON). 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 appreciate the privilege to be recognized to address you here on the floor, and I appreciate the gentleman from Texas' previous hour and his discussion on health care.

By the way, the gentleman from Texas, Congressman/Dr. BURGESS' contribution on this health care debate that has gone on now for months and months and months, his intensity doesn't let up. He understands the issue. He is here on a cause, and this cause is to do what we can to salvage the system that America has had and improve that system and not capitulate to this system of ObamaCare.

Madam Speaker, I will take us to that, and I will cross a number of lines into different subjects here this evening. But with regard to the ObamaCare that we have heard about for the last hour and for the last 9 or so months, we have seen a Congress that has passed legislation that on the day it passed the House, it couldn't have passed the Senate. On the day it passed the House, we don't know what kind of bargains came in that brought about just barely the votes to get it passed, but we knew the President would sign it. He wanted anything that he could put his name on.

By the way, the President of the United States is the one who gave the moniker to this legislation, "ObamaCare." He called it ObamaCare February 25 at the Blair House at that conference on health care that seemed to have given the ObamaCare its legs.

I am for 100 percent repeal of ObamaCare. There isn't any part of that that I want to keep, that I want to hold, that I want to sustain or expand or continue into the next year or generation.

Most of it is not enacted until the year 2014. There are some small pieces that are enacted right away, and then slowly over time. The tax increases, by the way, are enacted pretty soon so

they can collect this money for the first 4 or more years and then charge only 6 years of expenses against 10 years of revenue and argue that it saves \$132 billion.

Now we find out that high-ranking people within the administration and possibly the President himself understood that the numbers that came in were not accurate, that ObamaCare is going to cost a lot more than they represented it to cost on the day that the legislation was passed.

Now, I don't think that is the reason to repeal ObamaCare. I have always thought it was going to cost a lot more than they said it would. The reasons to repeal ObamaCare are great in number and more varied than that.

□ 2140

But we're not going to get down to a financial calculation. In the end, there are enough people in America that think somehow they're going to get a free lunch, that they're not going to support the repeal of ObamaCare for that. But they understand this. They understand when the government runs things, there are lines. There are lines at TSA to get into the airport. There are lines to get your driver's license. There are lines outside of Federal buildings. There are lines outside the Cannon, the Longworth, and the Rayburn Building of just citizens that want to come in and watch their government function.

Free people don't stand in line. Free people, Madam Speaker, will go to the next place of business. If the line is too long at McDonald's, they will go to Burger King. But when they're dealing with government, it's a monopoly. That's why the line is there. The government doesn't have any incentive to expedite the passage of people through that service, except to turn down the noise of the squeaky wheel, because government doesn't have to compete for its customers. The government has a monopoly. So free people, they don't stand in line. They go someplace else. But our freedom is diminished every time the government takes up a task that the private sector can do, and health care is certainly one of those.

So, Madam Speaker, here's what I'm watching happen. This has taken place over the last year and a half. A little bit of it began under the Bush administration. But I'd start with this: \$700 billion in TARP spending, half of that approved under the Bush administration, essentially down the lame duck era of his term. The other half of it—that was right before the election, if I remember right. The other half of it was approved by a Congress that was elected in November of 2008 and signed in by a President who was elected in November of 2008. That was President Obama. At the direction of Speaker PELOSI and the majority leader in the Senate, HARRY REID, \$700 billion in TARP spending, most of it, in my view, wasted.

And while this is going on, we had three large investment banks that were

nationalized, taken over by the Federal Government. That means Federal ownership or control, management influence and control, three large investments banks. AIG, to the tune of about \$180 billion. Then we watched Fannie Mae and Freddie Mac swallow up billions of taxpayer dollars to recapitalize them for their losses. Then we saw, right before Christmas, the President issue an Executive order that takes on all the contingent liabilities of Fannie and Freddie and completely nationalizes Fannie Mae and Freddie Mac, all of the markets that are the secondary loan market of Fannie Mae and Freddie Mac taken over by the Federal Government.

Then we saw General Motors and Chrysler taken over by the Federal Government. At General Motors, the Federal Government stepping in with 61 percent of the shares, bought up the share value of 61 percent; the Canadian Government, 12.5 percent; and the unions got handed 17.5 percent, even though the secured bondholders got iced out. They had the secured collateral and they still were iced out in the leveraged negotiations that took place.

And so we've seen one-third of the private sector activity taken over by the Federal Government, and along came a \$787 billion economic stimulus plan, and then a along came the resurrection of the dead ObamaCare. The dead ObamaCare was brought to life, barely squeezed out of it, on life support, limped out of this Congress, put on the President's desk in a fashion that it could not have passed this Congress on the day because the Senate would not have approved it, Madam Speaker.

And so we saw one-third of the private sector profits swallowed up in the banks, the AIG, Fannie, Freddie, General Motors, and Chrysler, and another sixth of the economy swallowed up in ObamaCare, where the most sovereign and private thing that we have, which is our own bodies, our skin and everything inside it, taken over by the Federal Government, called ObamaCare. Our skin and everything inside it, the most sovereign thing that we have. We manage our lives, we manage our bodies, and now the Federal Government tells us what we can and can't have for tests, what we can and can't have for insurance policies, what insurance policies will be approved and what insurance policies are not approved.

Every single insurance policy in America under ObamaCare will be cancelled by 2014. Yes, many will be reissued. Some will be similar to the ones they have. But there isn't a single policy that the President of the United States can point to and say, This one will be a live, viable policy in 2015, and it won't have to change. Every one gets cancelled.

They've nationalized our bodies. And they've done so, the very people that stood here and—before 1973, but at least 1973—said that, because of *Roe v. Wade*, they said that government has