

in the near future—I hope—and I speak on it today to put a spotlight on it so I have that opportunity.

I thank the Chair and thank my colleagues.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the previous amendment.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE], for himself, Mr. SCHUMER, Mr. BINGAMAN, and Mr. MERKLEY, proposes an amendment numbered 3354 to Amendment No. 3336.

(The amendment is printed in the RECORD of Tuesday, March 2, 2010, under "Text of Amendments.")

AMENDMENT NO. 3354 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, the amendment is withdrawn.

The Senator from Michigan.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LEVIN. Madam President, I ask unanimous consent that the Senate now proceed to executive session to consider the following nominations on the Executive Calendar: Calendar No. 560, the nomination of Terry Yonkers to be an Assistant Secretary of the Air Force; Calendar No. 563, the nomination of Frank Kendall to be Principal Deputy Under Secretary of Defense; Calendar No. 564, the nomination of Erin Conaton to be Under Secretary of the Air Force; Calendar No. 663, the nomination of Paul Oostburg Sanz to be General Counsel of the Department of the Navy; Calendar No. 664, the nomination of Malcolm O'Neill to be an Assistant Secretary of the Army; Calendar No. 665, the nomination of Jackalyn Pfannenstiel to be an Assistant Secretary of the Navy; that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Terry A. Yonkers, of Maryland, to be an Assistant Secretary of the Air Force.

Frank Kendall III, of Virginia, to be Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.

Erin C. Conaton, of the District of Columbia, to be Under Secretary of the Air Force.

Paul Luis Oostburg Sanz, of Maryland, to be General Counsel of the Department of the Navy.

Malcolm Ross O'Neill, of Virginia, to be an Assistant Secretary of the Army.

Jackalyn Pfannenstiel, of California, to be an Assistant Secretary of the Navy.

Mr. LEVIN. Madam President, I thank the Presiding Officer.

I thank my colleagues and the leaders who have been involved in facilitating this. It is long overdue, but I want to thank my colleagues for at least helping to make this happen this afternoon. This will be good news for the Defense Department, good news for our troops. Again, I thank all who have been helpful in this regard.

I yield the floor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

TAX EXTENDERS ACT OF 2009— Continued

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 3080 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. Madam President, in the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURRIS. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURRIS. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE REFORM

Mr. BURRIS. Madam President, my colleagues and I have spent much of last year debating the issue of health care reform. After nearly a century of false starts and broken promises, Democrats came to Congress determined to enact comprehensive reform. We were confident that this time we would not fall short as our predecessors had done; this time we would deliver the changes the American people have been demanding for so many years. But

over the course of the debate an unfortunate pattern emerged, a pattern of obstructionism and delay and scare tactics designed to derail our efforts to make a difference.

My Democratic colleagues and I worked hard under President Obama's leadership to craft sweeping legislation, but our Republican friends were not interested in passing health care reform. They had no desire to take action and no plan of their own. Instead, they found every opportunity to stall, to clog up the Senate, and score political points by attacking those who supported our efforts. They spread misinformation about death panels and higher costs and rationing coverage even though they knew these things were not in our bill. But they kept repeating this bad information and repeating it until it finally started to take hold.

The ordinary folk who heard these distortions had no reason to believe their elected officials would try to misinform them, so they retained this bad information and they did exactly what our Republican friends wanted them to do—they got angry. They held rallies. They called their Senators and Representatives. They regurgitated the talking points that had been written for them by obstructionists and special interests and the insurance lobby.

As a result, our Republican friends succeeded in holding up our health reform bill. By misinforming the American people, they stirred up an opposition that was tailor made to create confusion and gridlock no matter how hard some people tried to explain the truth because the facts are these.

No Democratic health care proposal has ever included a so-called "death panel."

None of our legislation would result in rationing of any kind.

And, rather than driving costs up, as my Republican friends have argued, nonpartisan analysis consistently shows that the Senate bill would lower costs significantly.

It would reduce the deficit by more than \$130 billion in the first 10 years, and almost \$1 trillion in the decades after that.

In addition, our bill would extend health coverage to 31 million Americans.

It would prevent corporations from discriminating against their customers because of pre-existing conditions.

And it would reduce health premiums for individuals and families, to the tune of hundreds, or even thousands, of dollars per year, depending on income level.

From the very beginning of this debate, I have called for a bill that fulfills the three goals of a public option:

A bill that creates competition in the insurance market. A bill that gives us the tools to hold insurance companies accountable. A bill that will provide cost savings to millions of Americans.

I believe our current proposal can accomplish all of these things. This legislation is not perfect, but it represents

a major step in the right direction. So I would urge my Republican friends to thoroughly examine the legislation we have introduced. And I would ask that they fulfill the public trust that has been placed in them, by being honest with the American people. By building their arguments on facts, not misinformation, and offering constructive suggestions rather than partisan talking points.

We all agree that our health care system is badly broken. And we owe it to everyone in this country to have a vigorous national debate about how to fix it.

In spite of the obstructionism and the delays that we have seen from the other side over the last year, I remain confident that my colleagues and I can pass a comprehensive health reform bill in the coming weeks. We have come further than any Congress in history. So it is time to finish the job. In light of recent developments, I think it is more likely than ever that our efforts will be successful.

Just last week, President Obama invited a group of Republicans and Democrats to join him for an open conversation about health care reform. Millions of Americans watched on TV as leaders from the House, the Senate, and the executive branch laid out their respective ideas for reform.

Yes, we heard some partisan talking points from a few on the other side. But for the most part, both Republicans and Democrats seemed eager to engage in a real conversation. They challenged each other's ideas. They debunked some of the myths that have taken hold over the past year. In the end, I think we discovered that we share more common ground than many people thought.

So it is time to move forward. President Obama has announced that he is open to four specific Republican ideas that emerged from last week's health care summit. I share the President's support for these proposals, which include eliminating waste and fraud, funding demonstration grants, increasing Medicaid doctor reimbursements, and expanding health savings accounts. I hope that my colleagues on both sides of the aisle will give these ideas a hard look, so we can incorporate them into our existing legislation. And I hope that my Republican friends will recognize that, while our current bill is not perfect, it contains a number of things they can strongly support.

So let us end the obstructionism and the delays. Let's stop spreading misinformation, and continue the conversation that emerged from the President's health care summit. And once we have a final bill that incorporates some of these suggestions, let us have an up or down vote.

The American people are tired of hearing excuses. They are tired of watching some members of this chamber manipulate the rules to prevent us from taking action. That is not how this Senate is supposed to work. So,

whether my colleagues support or oppose the final legislation, I hope they will have the courage to let it come to a vote, rather than hiding behind the threat of filibuster.

This debate has been going on for a year. And the American people have been calling for comprehensive reform for almost a century. So I think it is high time to move forward together. Let's get this done. Let's do it right. Let's do it now.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BURRIS). Without objection, it is so ordered.

AMENDMENT NO. 3356, AS MODIFIED

Mr. REID. Mr. President, I ask unanimous consent that the Murray amendment I offered on her behalf be the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is pending.

Mr. REID. I ask unanimous consent that it be modified with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so modified.

The amendment, as modified, is as follows:

At the end of subtitle C of title II, insert the following:

SEC. ____ 6-MONTH EXTENSION OF THE EMERGENCY CONTINGENCY FUND FOR STATE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAMS.

(a) IN GENERAL.—Section 403(c) of the Social Security Act (42 U.S.C. 603(c)) is amended—

(1) in paragraph (2)(A), by inserting “, and for the first 6 months of fiscal year 2011, \$1,300,000,000,” before “for payment”;

(2) in paragraph (2)(B)—

(A) by inserting “for fiscal year 2009” after “under subparagraph (A)”;

(B) by inserting before the period the following: “, and may be used to make payments to a State during fiscal year 2011 with respect to expenditures incurred by such State during fiscal year 2009 or 2010. The amounts appropriated to the Emergency Fund under subparagraph (A) for the first 6 months of fiscal year 2011 shall be used to make grants to States during such months in accordance with the requirements of paragraph (3), and may be used to make payments to a State during the succeeding months of fiscal year 2011 and during fiscal year 2012 with respect to expenditures incurred by such State during the first 6 months of fiscal year 2011”;

(3) by striking paragraph (2)(C) and inserting the following:

“(C) LIMITATIONS.—

“(i) IN GENERAL.—In no case may the Secretary make a grant from the Emergency Fund for a fiscal year after fiscal year 2012.

“(ii) RESERVATION OF FUNDS.—Of the amounts appropriated to the Emergency Fund under subparagraph (A) for the first 6 months of fiscal year 2011, \$500,000 shall be placed in reserve for use in the succeeding months of such fiscal year and in fiscal year

2012. Such amounts shall be used to award grants for any expenditures incurred by States after April 30, 2011.”;

(4) in clause (i) of each of subparagraphs (A), (B), and (C) of paragraph (3), by striking “year 2009 or 2010” and inserting “years 2009, 2010, or the first 6 months of fiscal year 2011”;

(5) by adding at the end of paragraph (3) the following:

“(D) GRANT RELATED TO INCREASED EXPENDITURES FOR EMPLOYMENT SERVICES.—

“(i) IN GENERAL.—For each of the first 2 calendar quarters in fiscal year 2011, the Secretary shall make a grant from the Emergency Fund to each State that—

“(I) requests a grant under this subparagraph for the quarter; and

“(II) meets the requirement of clause (ii) for the quarter.

“(ii) EMPLOYMENT SERVICES EXPENDITURE REQUIREMENT.—A State meets the requirement of this clause for a quarter if the total expenditures of the State for employment services in the quarter, whether under the State program funded under this part or as qualified State expenditures, exceeds the total such expenditures of the State in the corresponding quarter in the emergency fund base year of the State.

“(iii) AMOUNT OF GRANT.—Subject to paragraph (5), the amount of the grant to be made to a State under this subparagraph for a quarter shall be an amount equal to 80 percent of the excess described in clause (ii).”;

(6) in paragraph (4), by striking “and subsidized employment” and inserting “subsidized employment, and employment services”;

(7) in paragraph (5)—

(A) in the paragraph heading, by inserting “ON PAYMENTS; ADJUSTMENT AUTHORITY” after “LIMITATION”;

(B) by striking “The total amount” and inserting the following:

“(A) IN GENERAL.—The total amount”;

(C) by inserting after “grant” the following: “The total amount payable to a single State under subsection (b) and this subsection for the first 6 months of fiscal year 2011 shall not exceed 15 percent of the annual State family assistance grant.”; and

(D) by adding at the end the following:

“(B) ADJUSTMENT AUTHORITY.—The Secretary may issue a Program Instruction without regard to the requirements of section 553 of title 5, United States Code, specifying priority criteria for awarding grants to States for the first 6 months of fiscal year 2011 or adjusting the percentage limitation applicable under subparagraph (A) with respect to the total amount payable to a single State for such months, if the Secretary determines that the Emergency Fund is at risk of being depleted prior to April 30, 2011, or the Secretary determines that funds are available to accommodate additional State requests.”; and

(8) in paragraph (9)—

(A) in subparagraph (B)(i), by striking “or 2008” and inserting “, 2008, or 2009”;

(B) by adding at the end of subparagraph (B)(ii) the following:

“(IV) The total expenditures of the State for employment services, whether under the State program funded under this part or as qualified State expenditures.”; and

(C) by adding at the end the following:

“(D) EMPLOYMENT SERVICES.—The term ‘employment services’ means services designed to help an individual begin, remain, or advance in employment, as defined in program guidance issued by the Secretary (without regard to section 553 of title 5, United States Code).”.

(b) CONFORMING AMENDMENTS.—Section 2101 of division B of the American Recovery

and Reinvestment Act of 2009 (Public Law 111-5) is amended—

(1) in subsection (a)(2)—

(A) by striking “2010” and inserting “2011”; and

(B) by striking all that follows “repealed” and inserting a period; and

(2) in subsection (d)(1), by striking “2010” and inserting “2011”.

(c) **PROGRAM GUIDANCE.**—The Secretary of Health and Human Services shall issue program guidance, without regard to the requirements of section 553 of title 5, United States Code, which ensures that the funds provided under the amendments made by this section for subsidized employment do not support any subsidized employment position the annual salary of which is greater than the median annual income for all participating jurisdictions.

SEC. —. DEPARTMENT OF LABOR; EMPLOYMENT AND TRAINING ADMINISTRATION; TRAINING AND EMPLOYMENT SERVICES.

(a) **ADDITIONAL AMOUNT.**—There is appropriated for fiscal year 2010, for an additional amount for “Training and Employment Services” for activities under the Workforce Investment Act of 1998 (referred to in this section as the “WIA”), \$1,300,000,000. That amount is appropriated out of any money in the Treasury not otherwise appropriated. The amount shall be available for obligation for the period beginning on the date of enactment of this Act.

(b) **ACTIVITIES.**—Except as otherwise provided in subsection (c), of the amount made available under subsection (a), \$1,300,000,000 shall be available for grants to States for youth activities, including summer employment for youth, which funds shall remain available for obligation through September 30, 2010, except that—

(1) no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA;

(2) for purposes of section 127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities for fiscal year 2010 does not exceed \$1,000,000,000;

(3) with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting “age 24” for “age 21”; and

(4) the work readiness aspect of the performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of summer employment for youth provided with such funds.

(c) **ADMINISTRATION; MANAGEMENT; OVERSIGHT.**—

(1) **IN GENERAL.**—An amount that is not more than 1 percent of the funds made available to the Department of Labor under subsection (a) may be used for the Federal administration, management, and oversight of the programs, activities, and grants, funded under subsection (a), including the evaluation of the use of such funds.

(2) **PERIOD FOR OBLIGATION.**—Funds designated for the purposes of paragraph (1), together with the funds described in section 801(b) of Division A of the American Recovery and Reinvestment Act of 2009, and the funds described in the matter under the heading “SALARIES AND EXPENSES (INCLUDING TRANSFER OF FUNDS)”, in the matter under the heading “DEPARTMENTAL MANAGEMENT” in title VIII of that division, shall be available for obligation through September 30, 2012.

SEC. —. INTELLIGENT ASSIGNMENT IN ENROLLMENT AND RE-ASSIGNMENT OF CERTAIN INDIVIDUALS.

(a) **IN GENERAL.**—Section 1860D-1(b)(1) of the Social Security Act (42 U.S.C. 1395w-101(b)(1)) is amended—

(1) in the second sentence of subparagraph (C), by inserting “, subject to subparagraph (D),” before “on a random basis”; and

(2) by adding at the end the following new subparagraph:

“(D) **INTELLIGENT ASSIGNMENT.**—In the case of any auto-enrollment under subparagraph (C) or any re-assignment, no part D eligible individual described in such subparagraph shall be enrolled in or re-assigned to a prescription drug plan which does not meet both of the following requirements:

“(i) **LOW COST.**—The total cost under this title of providing prescription drug coverage under the plan is among the lowest 25th percentile of prescription drug plans under this part in the State.

“(ii) **MEETS BENEFICIARY NEEDS.**—The plan reasonably meets the needs of such part D eligible individuals as a group, as identified by the Secretary using criteria established by the Secretary.

In the case that no plan meets the requirements under clauses (i) and (ii) or that the plans which meet such requirements do not have sufficient capacity for the enrollment or re-assignment of such part D eligible individual in or to the plan, the part D eligible individual shall be enrolled in or re-assigned to a prescription drug plan under the enrollment process under subparagraph (C) (as in existence before the date of the enactment of this subparagraph).”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect for enrollments and re-assignments effected on or after January 1, 2012.

SEC. —. ELIMINATION OF ADVANCE REFUNDABILITY OF EARNED INCOME CREDIT.

(a) **IN GENERAL.**—Section 3507, subsection (g) of section 32, and paragraph (7) of section 6051(a) are repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 6012(a) is amended by striking paragraph (8) and by redesignating paragraph (9) as paragraph (8).

(2) Section 6302 is amended by striking subsection (i).

(c) **EFFECTIVE DATE.**—The repeals and amendments made by this section shall apply to taxable years beginning after December 31, 2010.

AMENDMENT NO. 3417 TO AMENDMENT NO. 3336

Mr. REID. I am now going to call up amendment No. 3417, with the understanding that Senator ISAKSON will be allowed to call up his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. ENSIGN, Mrs. FEINSTEIN, Mr. HATCH, Mr. CRAPO, and Mrs. BOXER, proposes an amendment numbered 3417 to amendment No. 3336.

Mr. REID. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To temporarily modify the allocation of geothermal receipts)

At the end of title VI, add the following:

SEC. 6. ALLOCATION OF GEOTHERMAL RECEIPTS.

Notwithstanding any other provision of law, for fiscal year 2010 only, all funds received from sales, bonuses, royalties, and rentals under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) shall be deposited in the Treasury, of which—

(1) 50 percent shall be used by the Secretary of the Treasury to make payments to

States within the boundaries of which the leased land and geothermal resources are located;

(2) 25 percent shall be used by the Secretary of the Treasury to make payments to the counties within the boundaries of which the leased land or geothermal resources are located; and

(3) 25 percent shall be deposited in miscellaneous receipts.

Mr. REID. Mr. President, there will be no more votes today or tomorrow. We are in the process of working on this bill. We do not have it all worked out. We think we can work it out so we can finish it with a couple votes Tuesday morning. We may have to invoke cloture, but we will make that determination. I think we will probably file cloture on it today or tomorrow.

The PRESIDING OFFICER. The Senator from Montana is recognized.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 3075 are printed in today's RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

Mr. BAUCUS. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Arizona.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3427 TO AMENDMENT NO. 3336

Mr. MCCAIN. Mr. President, I ask unanimous consent that the pending business be set aside for the purposes of offering an amendment, and that, of course, the vote on the amendment be decided by the majority leader and the Republican leader.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. GRAHAM, proposes an amendment numbered 3427.

Mr. MCCAIN. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of reconciliation to consider changes in Medicare)

At the appropriate place, insert the following:

SEC. —. PROTECTING MEDICARE.

Section 310(g) of the Congressional Budget Act of 1974 (2 U.S.C. 641(g)) is amended by inserting before the period the following: “or to the medicare program established by title XVIII of such Act”.

Mr. MCCAIN. Mr. President, the President of the United States and the majority in both Houses have now signaled that regardless of how clearly the American people oppose the pending legislation concerning health care in America, it will be attempted to be forced down their throats under the parliamentary process that is intended

for our Nation's budgetary matters, whether they want it or not.

This amendment that is pending would remove our important Medicare Program from the partisan procedural process known as budget reconciliation. We must protect the Medicare Program from being used as a piggybank to create the new health care entitlement proposed by Senator REID and President Obama. In addition to increasing taxes by \$500 billion, the health care "reform" bill cuts \$500 billion from Medicare to put the government in charge of a new \$2.3 trillion health care entitlement that we can't afford.

My constituents in Arizona and Americans across the country know the partisan games that are being played here, and they are opposed to it. Our entitlement programs should not be the subject of reconciliation. In 1974, the Budget Act excluded Social Security from the 51-vote reconciliation process. That was intentional, by one of the major architects, ROBERT BYRD, one of the most revered Members of the Senate, who has also said that health care reform should not be the subject of reconciliation. That makes sense, because if you exclude Social Security because it is an entitlement program, then, obviously, Medicare should also be excluded. We have a crisis with our entitlement programs and they need to be reformed, but they shouldn't be subject to a 51-vote majority.

This amendment removes the Medicare Program from the reconciliation process. Medicare reforms need to be made, and this amendment doesn't affect that, but what the amendment says is that reforms to the Medicare Program should be treated differently just as the Social Security program is. A program as important as Medicare should not be cut or increased through a partisan 51-vote process. Something this important should be held to a higher standard and include bipartisan support.

Let me remind my colleagues of the view of then-Senator Obama in 2007 when we were considering the "nuclear option." He said at that time:

You've got to break out of what I call, sort of, the 50-plus-one pattern of presidential politics. Maybe you eke out a victory of 50-plus-one, then you can't govern. You know, you get Air Force One, I mean there are a lot of nice perks, but you can't deliver on health care. We're not going to pass universal health care with a 50-plus-one strategy.

On the use of reconciliation, then-Senator Obama went even further and said:

You know, the Founders designed this system, as frustrating [as] it is, to make sure that there's a broad consensus before the country moves forward . . . And what we have now is a President who—

he was obviously referring to then-President Bush—

. . . [h]asn't gotten his way. And that is now prompting, you know, a change in the Senate rules that really I think would change the character of the Senate forever . . . And what I worry about would be you es-

entially still have two chambers—the House and the Senate—but you have simply majoritarian absolute power on either side, and that's just not what the founders intended.

I have been around this body for quite a while. Back a few years ago, when this side was in the majority and there was a movement toward the "nuclear option"—in other words, 51 votes to confirm judges—I stood up as a member of the majority and said we should not erode the 60-vote majority rule that has prevailed here in the Senate for many years. At that time, that was not greeted on this side of the aisle, frankly, with approval by a lot of people. But what we did then was preserve the Senate tradition and process of 60 votes, and we should maintain that now.

Certainly, having been in the majority and in the minority, I understand the frustrations of the majority. But I think history will show there have been numerous occasions where the requirement for a 60-vote majority has prevented the Congress of the United States from acting at the will of the moment or the fancy or the issue; that when time passes and cooler heads prevail, the 60-vote majority prevented the Congress from acting in a way that would have been harmful to the United States of America and its citizens.

All of my other colleagues have also commented on this issue at different times, depending on whether they are in the majority or the minority. But I wish to point out again a fundamental fact of the way the Congress of the United States has done business in general, and the way the Senate of the United States has done business. We have never had in our history a major reform, whether it be the Civil Rights Act or whether it be the passage of Medicare, whether it be welfare reform or any other major reform made without a majority, and a significant majority, that was bipartisan in nature. That doesn't mean there was 100 percent, but there has always been, whenever major structural reforms have been made, a consensus that was a significant majority on both sides.

So as we have time after time on this floor, we will be coming to the floor every day, my colleagues and I, to urge the majority and the President of the United States to start over and sit down and work together.

Overwhelming majorities of the American people believe we should either stop or start over. Overwhelming majorities of the American people want us to reform the system. But they do not like this unsavory process of vote buying, and they certainly do not like the product.

We will continue to carry the message to our constituents and to the American people. I believe there is still sufficient time for the will of the American people to prevail.

Mr. President, the hour is late. I appreciate the patience of the Chair and his willingness to serve in the chair at

this late hour, 7 o'clock at night. I appreciate him being here at this time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that on my amendment No. 3416, Senator VOINOVICH be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3401 TO AMENDMENT NO. 3336

Mrs. LINCOLN. Mr. President, I ask to set aside the pending amendment and call up my other amendment, No. 3401.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN] proposes an amendment numbered 3401 to amendment No. 3336.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve a provision relating to emergency disaster assistance)

On page 75, line 4, strike "excessive rainfall or related" and insert "drought, excessive rainfall, or a related".

On page 76, line 1, insert "fruits and vegetables or" before "crops intended".

On page 76, line 13, strike "90" and insert "112.5".

Beginning on page 76, strike line 18 and all that follows through "(4)" on page 77, line 17, and insert "(3)".

On page 78, strike lines 3 through 7 and insert the following: "not more than \$300,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible specialty crop producers for losses due to a natural disaster affecting the 2009 crops, of which not more than—

(A) \$150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of drought; and

(B) \$150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of excessive rainfall or a related condition.

On page 78, lines 18 and 19, strike "with excessive rainfall and related conditions".

On page 78, line 21, strike "2008" and insert "2009".

On page 79, lines 4 and 5, strike "under this subsection" and insert "for counties described in paragraph (1)(B)".

On page 80, between lines 3 and 4, insert the following:

(5) PROHIBITION.—An eligible specialty crop producer that receives assistance under this subsection shall be ineligible to receive assistance under subsection (b).

On page 80, line 4, strike "(5)" and insert "(6)".

On page 87, between lines 4 and 5, insert the following:

(h) HAY QUALITY LOSS ASSISTANCE PROGRAM.—

(1) DEFINITION OF DISASTER COUNTY.—In this subsection:

(A) IN GENERAL.—The term “disaster county” means a county included in the geographic area covered by a qualifying natural disaster declaration for flooding that occurred during the period beginning on May 1, 2009, and ending on December 31, 2009.

(B) EXCLUSION.—The term “disaster county” does not include—

- (i) a contiguous county; or
- (ii) a county that had less than a 10-percent loss in the quality of the 2009 crop of hay, as determined by the Secretary.

(2) ASSISTANCE.—Of the funds of the Commodity Credit Corporation, the Secretary shall use such sums as are necessary to provide assistance to eligible producers of the 2009 crop of hay that suffered quality losses in a disaster county due to flooding that occurred during the period beginning on May 1, 2009, and ending on December 31, 2009.

(3) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to receive assistance under this subsection, a producer shall certify to the Secretary that the average quality loss of the producer meets or exceeds the approved quality adjustment for hay due to flooding at harvest.

(B) EVIDENCE.—

(i) IN GENERAL.—In making the certification described in subparagraph (A), the producer shall provide to the Secretary reliable and verifiable evidence of the quality loss and the production of the producer.

(ii) LACK OF EVIDENCE.—If evidence described in clause (i) is not available, the Secretary shall use—

(I) in the case of unavailable quality loss evidence, documentation provided by the Cooperative Extension Service, State Department of Agriculture, or other reliable sources, including institutions of higher education, buyers, and cooperatives, as to the extent of quality loss in the disaster county; and

(II) in the case of unavailable production evidence, the county average yield, as determined by the Secretary.

(4) DETERMINATION OF PAYMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of assistance provided under this subsection to an eligible producer shall equal the product obtained by multiplying, as determined by the Secretary—

- (i) the quantity of hay harvested by the eligible producer;
- (ii) a quality adjustment that is equal to the difference between—
 - (I) the average price per ton for average quality hay; and
 - (II) the average price per ton for poor quality hay due to flooding; and
- (iii) 65 percent.

(B) LIMITATION.—The maximum amount that an eligible producer may receive under this subsection is \$40,000.

(5) RELATIONSHIP TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(6) ADJUSTED GROSS INCOME LIMITATION.—A person or legal entity with an average adjusted gross nonfarm income that exceeds the amount described in section 1001D(b)(1)(A) of the Food Security Act of 1985 (7 U.S.C. 1308-3a(b)(1)(A)) shall be ineligible to receive benefits under this subsection.

(7) DIRECT ATTRIBUTION.—In carrying out this subsection, the Secretary shall apply

section 1001(e) of the Food Security Act of 1985 (7 U.S.C. 1308(e)).

On page 87, line 5, strike “(h)” and insert “(i)”.

On page 89, line 15, insert “for the purchase, improvement, or operation of the poultry farm” after “lender”.

On page 89, strike line 24 and insert the following:

(j) STATE AND LOCAL GOVERNMENTS.—Section 1001(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(f)(6)(A)) is amended by inserting “(other than the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of this Act)” before the period at the end.

(k) ADMINISTRATION.—

On page 90, line 4, insert “and the amendment made by this section” after “section”.

On page 90, line 7, insert “and the amendment made by this section” before “shall be”.

On page 91, line 1, strike “\$15,000,000” and insert “\$10,000,000”.

Mrs. LINCOLN. Mr. President, I want to let my colleagues know that we have worked in a bipartisan way on the underlying amendment, and we worked in a bipartisan way to see how we could make these modifications to bring \$30 million of additional savings to the overall bill.

I look forward to working to complete this bill. I think we have a great opportunity to create jobs and to look to the future to how we can put our economy back on track in this country and put people back to work with some of the great ideas and great opportunities that exist in the underlying bill.

Mr. GRASSLEY. Mr. President, I want to resolve a dispute that arose on the floor earlier this morning.

There were differing opinions on whether the Senate-passed health care reform bill cuts taxes or raises taxes.

During the month-long floor debate on health care reform—ending with a final vote on Christmas Eve—I took to the floor on five occasions to address this question.

Let me top-line it for my Senate colleagues and my friends in the media.

According to the Joint Committee on Taxation, only about 7 percent of Americans would actually receive the government subsidy for health insurance under the Senate-passed health care reform bill.

The remaining 93 percent of Americans would not be eligible for a tax benefit under the bill.

How can a person receive a tax cut if they do not receive a tax benefit?

Here is another powerful statistic that every policymaker needs to know: While only about 7 percent of Americans under \$200,000 would actually receive the subsidy for health insurance, 25 percent of Americans under \$200,000 would see their taxes go up.

This is even after taking into account the government subsidy.

This means that for every one middle class family that would receive the government subsidy, three middle class families would pay higher taxes.

Again, this is all according to the Joint Committee on Taxation, the non-partisan experts.

Now, let's get to specifics. JCT tells us that in 2019 a little more than 13 million individuals, families, and single parents would receive the government subsidy for health insurance.

JCT also tells us that the total number of tax filers in 2019 would be 176 million.

That means that out of 176 million individuals, families, and single parents only 13 million of them would receive a government subsidy for health insurance.

That is only about 7 percent of tax filers.

Let me repeat that. Only about 7 percent of Americans will benefit from the subsidy for health insurance.

I have a pie chart here so my friends can see.

You can see here, out of 176 million tax returns, around 13 million of them get the government subsidy for health insurance.

This means that 163 million individuals, families, and single parents or 93 percent of all tax returns receive no tax benefit under the Reid bill.

So what does this mean?

It means that there is a small beneficiary class under the Reid bill—about 7 percent of Americans.

And a very large nonbeneficiary class—93 percent of Americans.

Is this nonbeneficiary class affected in other ways?

Yes. While one group of Americans in this class would be unaffected—another group of Americans will see their taxes go up.

And this group won't have a tax benefit to offset their new tax liability.

That means that these Americans will be worse off under the Reid bill. What happened to their “net tax cut”?

What they will see instead is a net tax increase.

JCT data backs up this claim.

Specifically, based on JCT data, in 2019, 42 million individuals, families, and single parents with income under \$200,000 will see their taxes go up.

This is even after taking into account the subsidy for health insurance.

Again, this is on a net basis.

Now, if we were to identify (1) those Americans who are not eligible to receive the tax credit and (2) those whose taxes go up before they see some type of tax reduction from the subsidy, this number climbs to 73 million.

I have a chart here that illustrates this: The first bar illustrates what we have already established, but looks at Americans earning less than \$200,000. Here, 13 million individuals, families, and single parents would receive the subsidy.

The middle bar shows the net tax increase number of 42 million Americans under \$200,000.

Finally, when we identify those Americans who get no benefit under the bill—and those Americans who see a tax increase—we find there are 73 million individuals, families, and single parents under \$200,000 in this category.

I want to close by referring to a final chart that illustrates the winners and losers under the Reid bill.

What we see here is that there is a group of Americans who clearly benefit under the bill from the government subsidy for health insurance.

This group, however, is relatively small—about 7 percent of Americans.

There is another much larger group of Americans who are seeing their taxes go up. This group is not benefiting from the government subsidy.

Also, there is another group of taxpayers who are generally unaffected.

But, JCT tells us that this group may be affected by other tax increases like the cap on FSAs or the individual mandate penalty tax.

The bottom-line is this. My Democratic friends (1) cannot say that all taxpayers receive a tax cut and (2) cannot say that the Reid bill does not raise taxes on middle-income Americans.

JCT tells us differently.

No one can dispute the data.

VOTE EXPLANATION

Mr. ISAKSON. Mr. President, I was unavoidably detained during rollcall vote No. 36 on the motion, motion to waive section 403(a) of S. Con. Res. 13, 111th Congress, re: Sanders amendment No. 3353 as modified; rollcall No. 37 on the motion to table, motion to table Bunning amendment No. 3360; rollcall vote No. 38 on the motion to table, motion to table Bunning amendment No. 3361; and rollcall vote No. 39 on the motion, motion to waive Budget Act points of order re: Baucus amendment No. 3336.

Had I been present I would have voted "nay" for rollcall vote No. 36; "nay" for rollcall vote No. 37; "nay" for rollcall vote No. 38; and "nay" for rollcall vote No. 39 and ask that the CONGRESSIONAL RECORD reflect that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3406, 3349 AND 3346, AS MODIFIED, EN BLOC

Mr. REID. I ask unanimous consent that it be in order for the Senate to consider en bloc the following amendments with no amendments in order to the amendments; that once the amendments have been reported by number, and modified, if applicable, the amendments be agreed to en bloc, and the motions to reconsider be laid upon the table, en bloc: amendment No. 3406, amendment No. 3349, and that the amendment No. 3346 be modified with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 3406

(Purpose: To make technical changes)

On page 91, line 13, strike "\$354,000,000" and insert "\$560,000,000".

On page 92, line 19, strike "February" and insert "March".

On page 92, after line 20, add the following: (3) EFFECTIVE DATE FOR LOAN GUARANTEES.—The amendment made by paragraph (2) shall take effect on February 27, 2010.

AMENDMENT NO. 3349

(Purpose: To clarify the effective date of section 244)

On page 73, line 21, after the second period insert the following: "The amendment made by this section shall be considered to have taken effect on February 28, 2010."

AMENDMENT NO. 3346, AS MODIFIED

(Purpose: To improve title V)

On page 161, line 13, strike "SEC. 501." and insert "SEC. 500."

On page 166, line 24, strike "March 1, 2010" and insert "May 1, 2010".

On page 169, line 3, strike "February 28, 2010" and insert "March 28, 2010".

On page 169, line 18, strike "May 3, 2010" and insert "July 1, 2010".

On page 184, line 2, strike "February 28, 2010" and insert "March 28, 2010".

On page 233, line 5, strike "February 28, 2010" and insert "March 28, 2010".

On page 234, lines 1 and 2, strike "February 28, 2010" and insert "March 28, 2010".

On page 234, lines 3 and 4, strike "March 1, 2010" and insert "March 29, 2010".

On page 234, line 23, strike "180 days" and insert "210 days".

On page 244, lines 16 and 17, strike "180 days" and insert "210 days".

On page 245, line 19, strike "180 days" and insert "210 days".

On page 267, strike lines 5 through 16, and insert the following:

SEC. 537. EFFECTIVE DATE; NONINFRINGEMENT OF COPYRIGHT.

(a) EFFECTIVE DATE.—Unless specifically provided otherwise, this title, and the amendments made by this title, shall take effect on February 27, 2010, and with the exception of the reference in subsection (b), all references to the date of enactment of this Act shall be deemed to refer to February 27, 2010, unless otherwise specified.

(b) NONINFRINGEMENT OF COPYRIGHT.—The secondary transmission of a performance or display of a work embodied in a primary transmission is not an infringement of copyright if it was made by a satellite carrier on or after February 27, 2010, and prior to enactment of this Act, and was in compliance with the law as in existence on February 27, 2010.

MORNING BUSINESS

Mr. REID. I now ask we proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

STAFF SERGEANT JOHN A. REINERS

Mr. BENNET. Mr. President, it is with a heavy heart that I rise today to honor the life and heroic service of SSG John A. Reiners. Sergeant Reiners, a member of the 1st Battalion, 12th Infantry Regiment, 4th Infantry Division at Fort Carson, CO, died on February 13, 2010. Sergeant Reiners was

serving in support of Operation Enduring Freedom in Kandahar, Afghanistan, when he was killed by an improvised explosive device that detonated while he was on patrol. He was 24 years old.

A native of Lakeland, FL, Sergeant Reiners and his family moved to Fort Carson in 2009 when he was assigned to the 4th Infantry Division. Sergeant Reiners joined the Army in July 2004. He served bravely during two tours in Iraq, before being deployed to Afghanistan in November of last year.

During 5½ years of service, Sergeant Reiners distinguished himself through his courage, dedication to duty, and willingness to take on any challenge—no matter how dangerous. Commanders recognized his extraordinary bravery and talent, bestowing on Sergeant Reiners numerous awards and medals, including the Purple Heart, the Army Commendation Medal, two Army Achievement Medals, the Army Good Conduct Medal, and the National Defense Service Medal. He also attended Ranger School in 2007, where he earned the prestigious Ranger Tab.

Sergeant Reiners worked on the front lines of battle, patrolling the most dangerous areas of Zhari district in Kandahar. He is remembered by those who knew him as a consummate professional with an unending commitment to excellence. His friends recall Sergeant Reiners saying that Army boot camp was too easy. Most of all, they remember his devotion to his wife, his son, and his country.

Mark Twain once said, "The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time." Sergeant Reiners' service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived without fear.

At substantial personal risk, he braved the chaos of combat zones throughout Afghanistan. And though his fate on the battlefield was uncertain, he pushed forward, protecting America's citizens, her safety, and the freedoms we hold dear. For his service and the lives he touched, Sergeant Reiners will forever be remembered as one of our country's bravest.

To Sergeant Reiners' mother Ronna, his father Gregory, his wife Casey, his son Lex, and all his friends and family—I cannot imagine the sorrow you must be feeling. I hope that, in time, the pain of your loss will be eased by your pride in John's service and by your knowledge that his country will never forget him. We are humbled by his service and his sacrifice.

LAS VEGAS ASIAN CHAMBER OF COMMERCE

Mr. ENSIGN. Mr. President, I rise today to commemorate the beginning of an exciting chapter for the Las Vegas Asian Chamber of Commerce. For more than 20 years, this group of entrepreneurial southern Nevadans has worked together to provide resources