and they will help us to invest in our future security and prosperity. This is the target. This is the way to get to long-term economic health.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator JOHANNS be recognized next and I be recognized following his remarks for up to 20 minutes; that following my remarks, Senator KYL be recognized, and following Senator KYL, Senator FRANKEN be recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Nebraska.

ABORTION FUNDING

Mr. JOHANNS. Mr. President, I rise today to speak for about 10 minutes about the health care debate that continues to be in front of us. For much of our country, the health care debate has been a long and confusing trail. As details have emerged over the last weeks and months, constituents ask me: What is going to happen to my health care? Will I be able to continue to see the doctor I have always seen? They heard both sides argue the merits and the detriments of various pieces of legislation. Citizens are understandably skeptical and perplexed by the debate that has transpired.

One of the things I suggest that is very clear, one situation that is clear as a matter of policy and conscience is that Americans are against the Federal funding of abortion, whether they support or oppose the bill. Unfortunately, the Senate-passed health care bill allows taxpayer funds to fund abortion.

The current Senate language says people who receive a new government subsidy could enroll in an insurance plan that covers abortion. Nothing would stop them from doing that.

Some say: Yes, but States could opt out. What I point out is that in those States that opt out, the taxpayers would still see their tax dollars funding elective abortions in other States.

Additionally, the Office of Personnel Management can provide access to two multistate plans in each State, and only one of them would exclude abortions. OPM's current health care program, the Federal Employees Health Benefits Program, now prohibits any plans—any plans—that cover elective abortion. For the first time, a federally funded and managed health care plan will cover elective abortions.

Those who have looked at this language have said very clearly that it is woefully inadequate. I say that. It does not apply a decades-old policy—an agreement really—that was reached many years ago that was embodied in the Hyde amendment. The Hyde language bars Federal funding for abortion except in the cases of rape and incest or where the life of the mother is at stake. The public has clearly rejected advancing the abortion agenda under the guise of health care reform.

Yet as we have seen the language of the Senate bill proceed, it seems very clear my colleagues are refusing to listen. They seem bent on forcing this very unpopular bill upon us via a rather arcane process called reconciliation.

The important point to be made today is this: Reconciliation will not allow us to fix the egregious abortion language.

This is not the first time I have come to the floor to speak about this issue. Last November, I came here to urge pro-life Senators to vote no on cloture if they wanted any chance to address the Federal funding of abortion in the Senate bill. I said then that if the language was not fixed before the debate began, there would be no way to fix it. We would not have any leverage to fix it.

I wish I were here on the floor today to say that I was wrong about that. Unfortunately, though, I was not wrong. Unfortunately, when an amendment was offered to match the Stupak language in the House bill with the Senate bill, only 45 Senators supported it.

The sad reality is that this Senate, as a matter of the majority, is not a pro-life body. There are not 60 Senators who are willing to vote for that.

Back in November, some of my colleagues disagreed with my assessment. There was a big debate. They said: Whoa, wait a second. We can fix this provision via an amendment, they said. But they were wrong. When the dust settled, we were left with a Senate bill that allows Federal funding of abortion.

The House is now being asked to vote on the Senate bill. You see, that is going to be the pathway: vote on the Senate bill so any fix on other provisions can come through a reconciliation sidecar.

According to the National Right to Life committee, the Senate bill is—and I am quoting their language—''the most pro-abortion single piece of legislation that has ever come to the House floor for a vote since Roe v. Wade.''

They go on to warn:

> Any House Member who votes for the Senate health bill is casting a career-defining pro-abortion vote.

There is talk that Democratic leaders might try to appease pro-life House Members by promising to change the Senate bill through a separate bill or the reconciliation sidecar I mentioned.

I urge pro-life supporters and pro-life House Members to think through this very carefully. Don't be fooled. Don't be lulled into thinking there are 60 votes in the Senate that will somehow rescue this situation. There are not. You do not have to take my word for it. It is in black and white in the CONGRESSIONAL RECORD. It is the same situation we faced in November.

The Senate specifically rejected the amendment that would have blocked Federal funding for abortion. Nothing—nothing—has changed to suggest the Senate would have anywhere near 60 votes to support it now.

It was recently reported that some in the pro-life community support adding pro-life language in the reconciliation sidecar or maybe in a separate bill with the hope and the promise that somehow the Senate will swoop in and waive the rules and keep that language there. Let me be abundantly clear. As much as I might want that to happen, it will not happen here, as demonstrated by November's vote.

If the Senate rejects it again, the language in the Senate bill would become law. Current law would be reversed, and taxpayer dollars would, in fact, fund abortions.

There was recently a column in the Washington Post. It issued a warning to pro-life Democrats to be wary of this strategy. I am quoting again:

> The only way they can ensure that the abortion language and other provisions they oppose are eliminated is to reject reconciliation entirely—and demand that the House and Senate start over with clean legislation.

I come to the Senate floor again to encourage my pro-life colleagues in the House to recognize the reality in the Senate. I tell them what they know already, and that is that many innocent lives are depending on their courage.

This issue should not be an issue of political gamesmanship, especially when the game is so rigged against prolifers. This is an issue of conscience. On this one, you are pro-life or you are not.

Agreeing to a strategy that is guaranteed to fail, one that has failed already in this health care debate in November, in my judgment, is not leadership at all. It is surrendering your values.

I leave the floor today, and I pray that my House colleagues will have the wisdom to understand this in their decisionmaking.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

STEEL INDUSTRY FUEL TAX CREDIT

Mr. SPECTER. Mr. President, I have sought recognition to talk about two subjects—first, an amendment filed by Senator ROCKEFELLER, amendment No. 3371 to amendment No. 3336, cosponsored by Senator HATCH, Senator BAUCUS, Senator CASEY, Senator BAYH, and myself.

This amendment would extend the steel industry fuel tax credit and make minor technical corrections to ensure that the steel industry will continue to recycle the hazardous waste called coal waste sludge. The recycling process which converts coal waste sludge into steel industry fuel eliminates a hazardous waste, ends the need to landfill or incinerate the waste, displaces fuel from the coking process, and increases the efficiency of coke-making. This recycling process makes the production

of coke more efficient and cost-effective. Additionally, this provision will create jobs across the country and preserve thousands of fuel-making jobs in economically hard hit States.

The technical corrections made by this amendment cover minor issues such as who has title to the coal in the few minutes before it enters the coke ovens and whether a minuscule percentage of the feedstock is pure coal or a material called pet coke.

The extension of the tax credit and these minor technical corrections will ensure this credit can actually be used by processors and the steel industry. I am advised that all of the integrated steel companies and the representatives of their workers support this provision, which is a rarity in any industry.

We have been working for nearly a decade to ensure the widespread use of this technology in coke ovens across the country. Across Pennsylvania, coke ovens continue to be used as the engine that drives the American industrial machine. I have long been committed to ensuring we use the cleanest and most efficient method for making steel and in this case, the coke that is an ingredient in the steel-making process.

This is an extender right in line with the thrust of the legislation, an extender which would save many jobs and add many more jobs. So it is right in line with what we are seeking to accomplish.

GRIDLOCK AND RECONCILIATION

Mr. SPECTER. Mr. President, I am now going to speak about the subject of gridlock which confronts this body and the use of the reconciliation process to enact comprehensive health care reform.

We have seen an extraordinary display of gridlock, evidenced at the present time. We have some 30 judicial nominees which are pending, and I ask unanimous consent to have printed in the RECORD the list of nominees following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. We have some 64 executive branch nominees who are now pending, and I ask unanimous consent to have printed in the RECORD a list of these nominees following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. We have some 13 ambassadorial positions pending, only 1 of which I am advised is controversial, and I ask unanimous consent to have printed in the RECORD a list of these 13 positions following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 3.)

Mr. SPECTER. On many occasions, the majority leader has been compelled to file a cloture petition, which is well known on this Senate floor. I don't believe it even has to be explained to C–SPAN viewers, even though it is technical and arcane, because it has been used so often. But in case anyone new is watching C–SPAN2—or perhaps I should say in case anybody is watching C–SPAN2—just a word of explanation. If a Senator places a hold on a nomination, that is a signal for a filibuster.

Unfortunately, we don't have filibusters. I have been in the Senate now since being elected in 1980 and I have been part of only one real filibuster. Had we utilized that procedure, perhaps there would be fewer holds and fewer moves toward filibuster. People really had to stand up here and argue, as Senator Thurman did historically once, for some 26 hours. But when the majority leader is compelled to file a cloture petition, cloture is invoked, and then some 30 hours must be consumed where the Senate can take care of no additional business, the two lights are on, there is a quorum call, and it is a colossal waste of time.

I am going to recite the facts in five of these cloture petitions to demonstrate that there was never really a controversy. Christopher Hill, Ambassador to the Republic of Iraq, had a cloture vote. Yet his vote in favor was 73 to 17—hardly controversial. Robert M. Groves, of Michigan, to be the Director of the Census, the cloture vote was 76 to 15—not really a contest there at all. Nobody seriously contested his confirmation. David Hamilton to be a judge of the Seventh Circuit, 70 yeas, 29 nays. A cloture petition was filed on Martha N. Johnson to be Administrator of General Services. The vote was 82 to 16. The nomination of Barbara Keenan to be a circuit judge in the Fourth Circuit, 99 to 0.

Mr. President, I ask unanimous consent to have printed in the RECORD the details of these cloture motions and confirmations following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 4.)

Mr. SPECTER. So the stage is now set where we have gridlock on the issue of comprehensive health care reform. In this situation, we have had the bills passed by both the House and the Senate, and we are now looking to use reconciliation, a procedure which has been employed some 22 times in analogous circumstances. Illustrative of the analogous circumstances are the use of cloture to pass Medicare Advantage and the passage of COBRA, the passage of SCHIP—health care for children—and the passage of the welfare reform bill in 1996.

In a learned article in the New England Journal of Medicine, Dr. Henry J. Aaron, an expert on budgetary matters, had this to say:

[reconciliation] can be used only to implement instructions contained in the budget resolution relating to taxes or expenditures. Congress created reconciliation procedures to deal with precisely this sort of situation. . . .

And he is referring here to what we have with the Senate-passed bill and the House-passed bill.

Quoting him further:

The 2009 budget resolution instructed both Houses of Congress to enact health care reform. The House and the Senate have passed similar but not identical bills. Since both Houses have acted but some work remains to be done to align the two bills, using reconciliation to implement the instructions in the budget resolution follows established congressional procedure.

I ask unanimous consent to have printed in the RECORD the full text of this article following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 5.)

Mr. SPECTER. So what we have here, essentially, is gridlock created by the composition of the two Houses of Congress. We have a situation where not one Member on the other side of the aisle voted in favor of the health care bill. In the House of Representatives, the vote was 176 to 1; that is, among the 177 Republicans voting, only 1 out of 177 in the House voted in favor. It is hard to see a more precise definition of ''gridlock'' than what appears here.

It would be my hope that we would be able to resolve the issue without resorting to reconciliation. If there is any doubt about the procedure, our institutional integrity would be enhanced without going in that direction. But if you have to fight fire with fire and since it is a legitimate means, then we can use it.

Five years ago, in 2005, the Senate faced a somewhat similar situation when the roles were reversed, when it was the Democrats filibustering judicial nominees of President Bush. And we find that so often it depends on whose ox is being gored as to who takes the position. Some of the most vociferous objectors to the use of reconciliation on comprehensive health care reform have filled the CONGRESSIONAL RECORD with statements in favor of using reconciliation in analogous circumstances when it helped their cause. But in the year 2000, it was the Democrats stymying Republican judicial nominees. During the Clinton administration, it was exactly reversed—it was Republicans stymying Clinton's judicial nominees. Fortunately, in 2005 we were able to work out the controversy. We were able to confirm some of the judges, some of the judges were withdrawn, and we did not move for what was called the nuclear option, which would have confirmed judges by 51 votes.

The procedural integrity of the Senate is very important. Without going into great detail, it was the Senate that saved the independence of the Federal judiciary when the Senate acquitted Supreme Court Justice Chase