

bill lowers the debt, but let me remind my colleagues that the extenders bill we will be voting on today—the bill we will be voting on today—will add more to the debt than even the White House claims its health spending bill will save. Let me say that again. The bill we are going to pass today, the extenders bill, will add more to the debt—will add more to the debt—than even the White House claims its health spending bill will save.

So if cost is what you are concerned about, then you cannot vote for this bill. It is that simple. Americans have it figured out, and that is why they are asking themselves why anyone in Congress would even think about voting for this bill. This should not even be a tough call.

Let's start over and work together on a step-by-step solutions process that focuses on cost, that actually lowers costs, not the other way around. Let's put together a bill Americans will support.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders, with the Republicans controlling the first portion and the majority controlling the second portion.

The Senator from Wyoming.

#### HEALTH CARE

Mr. BARRASSO. Mr. President, I just heard the Republican leader talk about the issue of health care in America and the goal which we heard so much about of getting the cost of care under control.

I have practiced medicine for 25 years in Casper, WY. I was in Wyoming yesterday visiting with physicians, visiting with nurses, visiting with those who are patients, as well as those who are providers, and talking with them about what is happening in this country and in this body with the discussion about health care in America and the legislation. No matter whom I talk with in Wyoming, when they look at this massive, 2,000-page bill and they think about it and then they ask questions about it, they say: How in the world is this actually going to get the cost of care down? How is this going to help them save money? Because as they read it and as they look at the rules and the regulations and the new mandates for more bureaucracies—they say it is going to be more government

employees at a time when there is 10 percent unemployment in the country—they say: It is going to likely cause my own cost of health care to go up, my own insurance coverage to go up. They have great concerns that the quality of their own care will go down—go down. Americans, and certainly the people in Wyoming, are very worried that if this bill becomes law, the cost of their care is going to go up and the quality and availability of their care is going to go down. That is not what they want.

The President was speaking in Philadelphia yesterday. The front page of one of the papers this morning says: "[The President] Turns Up the Volume in Bid for His Health Measure." And he said, as a challenge to Democrats, "If not us, who?"

Mr. President, it should be all of us. This should not be something that is being rammed through the House and the Senate and force-fed to the American people at a time when 75 percent of them want nothing to do with this bill. Three out of four Americans say: Stop, we don't want this, because they are worried about the cost of their own care and the availability and the quality of the care they are receiving.

So when the President gives his speeches, as he did yesterday, I would say: Involve all of us. Involve all of us in the discussion, which is what we should have been doing for over a year.

I look at what he said in his speech, and he talked about an insurance broker who apparently told some others there was so little competition—this is the President now talking, saying there is so little competition in insurance, that allows people to drive up the cost. The solution to that is the Republican solution that says: Increase the competition, increase the competition. That is what we need. Patients, people, citizens of this country want to be able to shop around, buy insurance across State lines, look for what is best for them and best for their families. If we did that, if we did that today, there would be 12 million more Americans with insurance by merely being allowed to have more competition, to be able to shop across State lines and to look around for something that is best for them and for their families—not the limited choices they may have in the State in which they happen to live.

So I look at this from the standpoint of practicing medicine for 25 years, visiting with patients, visiting with providers, talking with nurses, talking with doctors, saying there are things we can do to get down the cost of care. Unfortunately, they are not included in this 2,000-page bill that is now sitting over in the House, with all of these different approaches to force this through in a way that undermines what the American people want, what the American people are asking for—the opinions of the American people—by a group of people in this body who say: We know better than the American people.

This body does not know better than the American people. The House does not know better than the American people. It is time to listen to the American people, which is why I go home every weekend to visit with those folks in my State, in my home State of Wyoming, to visit with them about their needs, their concerns. And they have great concerns about this bill.

It is not just people in my home communities. Warren Buffett, the great investor, says Washington should scrap this health care bill and start over. He said they should focus, as our Republican leader said a few minutes ago, on the costs. He said we should say we are going to focus on the costs and not dream up 2,000 pages of other things. Warren Buffett says get rid of the nonsense, and this bill is loaded with nonsense. This bill is loaded with nonsense—nonsense that is going to drive up the cost of care and decrease the quality of care in this country.

So we have now been going through this for a year. The President is out trying to make an appeal to the Nation to say: Yes, buy this package I am trying to sell. The American people are too smart for that. They realize this package cuts \$500 billion from Medicare patients who depend on Medicare for their health care—\$500 billion in Medicare cuts. Part of it is to hospitals and part of it is to a program called Medicare Advantage. There are 10 million Americans on Medicare Advantage. The reason they signed up for this, they choose this, is because there is an advantage for them as seniors to participate in this program because this is a program that actually works with preventive care, with coordinating care, things that regular Medicare does not do. They are going to cut over \$100 billion from our nursing homes and money from home health, which is a lifeline for people at home. They are going to cut money from hospice for people in their final days of life. That is part of this big bill the President is supporting and that he is asking the House to vote for. It is a bill that raises taxes by another \$500 billion. It is a bill the House is going to be asked to pass that includes every one of the sweetheart deals because their first act in the House is going to have to be to pass the bill the Senate passed on Christmas Eve and that includes all the sweetheart deals, whether it is to Nebraska or Louisiana or Florida. Thirteen different Senators had sweetheart deals put into that bill the Democrats are going to be asked to vote for because the Republicans see through this whole thing.

So the opposition to this is bipartisan. It is bipartisan opposition. Those who support it is one party only.

We are looking now at a mandate where every American is going to be forced—forced—to buy a product, to buy insurance—forced under this—or they will either have to pay special taxes, have their wages garnished or pay a fine or a penalty under this plan

that the American people, three out of four, have absolutely rejected.

I see my colleague from Arizona has taken to the floor, and I would ask him if he is hearing similar things when he goes home to Arizona to visit with the people and what concerns he is hearing because there are certainly many seniors in the fine State of Arizona.

Mr. KYL. Mr. President, I appreciate my colleague asking. There are 330,000 seniors in the State of Arizona who rely on Medicare Advantage. It is exactly as Dr. BARRASSO said: Medicare Advantage is a program that helps people with preventive care, with coordinated care, and with some of the things that aren't available under regular care, including vision care, audio care, and the like. These benefits would be drastically cut under the proposal in this legislation, so they are naturally very much opposed to it. I think Arizona represents the second largest State in terms of the number of seniors participating in Medicare Advantage.

The other part of this that concerns them is the fact that if it is such a good idea to eliminate this program—or to drastically curtail it, to be perfectly accurate—then why is it that in one State the Senator was able to get his senior citizens who have Medicare Advantage programs exempted from the bill? If it is such a wonderful idea, why shouldn't it apply to everybody? But the seniors in Florida would be grandfathered in their Medicare Advantage plans because, of course, they don't like these cuts any more than seniors in Arizona or Wyoming or any other State.

So this brings up the question: How can these provisions that are objected to by the American people be fixed in the process that has now been settled upon, this so-called reconciliation process?

If I could address that for a moment. The author of this so-called reconciliation process is our esteemed colleague, the senior Senator from West Virginia, ROBERT BYRD. Here is what he had to say about using the process he created, this reconciliation process, for the purposes of consideration of health care legislation. I quote him from the Washington Post, March 22, 2009:

I am certain that putting health care reform and climate change legislation on a freight train through Congress is an outrage that must be resisted.

Using the reconciliation process to enact major legislation prevents an open debate about the critical issues in full view of the public. Health reform and climate change are issues that in one way or another touch every American family. The resolution carries serious economic and emotional consequences.

The misuse of the arcane process of reconciliation—a process intended for deficit reduction—to enact substantive policy changes is an undemocratic disservice to our people and to the Senate's institutional role.

That is what Senator BYRD had to say. Yet that is the process that has been selected by the Democratic leaders to force this legislation through the Congress.

The final point I wish to make with respect to this is I think, to some extent, it may be a cruel hoax on some of our Democratic colleagues in the House of Representatives who are counting on the Senate to back up the reconciliation bill that might be passed in the House of Representatives. What they are assuming is, when they attempt to fix the Senate bill they don't like very much by amending it through this reconciliation process and then sending that bill over to the Senate, the Senate is simply going to pass the bill. Voila: The bad Senate bill has been fixed, the President can sign the reconciliation bill, and we will now have national health care reform.

Well, not so fast. As a matter of fact, the author of this reconciliation process also created what is known around here as the Byrd rule, which means that if you go outside the narrow lanes of the reconciliation process and try to include things in the bill that don't belong in the reconciliation process, then it is, of course, subject to a point of order, as it should be, and it would take 60 Senators to override that point of order.

Well, there are a lot of things that are going to be attempted to be fixed in the reconciliation bill that are subject to a point of order—the Byrd rule. Those points of order will be upheld because I am going to predict to my colleagues that 41 Republican Senators are not going to allow that misuse of the reconciliation process—going outside what is clearly a reconciliation process—which means the bill that is passed in the House of Representatives, if it is, would not be passed by the Senate. Key provisions of it would have been stricken on points of order. Then, our friends in the House of Representatives would be faced with the prospect that they had already passed this bad Senate bill they don't like very much—and that I don't like very much—but the President can sign that into law. Yet the process by which they would attempt to fix it has failed because of the points of order that can be raised and that will be raised and that will be sustained, as should be the case, under the application of the so-called Byrd rule.

So when my colleague from Wyoming talks about his constituents in Wyoming objecting not only to the substance of the bill but also the process by which it has been handled, I can answer the question: Yes, I met with a whole group of people from different States this weekend—from Pennsylvania, California, New Jersey, New York—I visited with folks from literally all over the country, and they had the same objections, both as to the substance of the legislation, but they were also very curious about this reconciliation process because they had heard it could be used to ram the bill through by a process that it was never intended for, and they wanted to talk about that. When we explained the fact that the legislation adopted by the House—if it is—would not necessarily

be adopted in the Senate but would be subject to these points of order—and, by the way, amendments, an unlimited number of amendments—then at least they understood why House Democrats who will insist on amending the Senate bill should not rely on the Senate to do their bidding. That isn't going to happen.

Let me say one other thing before I turn it back over to my colleague from Wyoming. It has been such a learning experience for us and an inspiration to have a couple real physicians in the Senate. Our only two physicians here are Dr. BARRASSO, an orthopedic surgeon from Wyoming, and Dr. TOM COBURN, a physician from the State of Oklahoma, to talk about the real world of treating patients and how there are ways that care can be given in a less expensive way but retaining both the essential quality of care and that intangible but incredibly important—almost sacred—relationship between the doctor and the patient.

I see Dr. COBURN has joined us on the floor. It is key for the rest of us to understand how this process works when physicians sit down with patients and determine the best course of action to preventive care, that can both be the least expensive and yet still deliver the quality care that their patients deserve.

I think we ought to pay more attention to the advice they have provided to us, and I commend both Senator BARRASSO as well as Dr. COBURN for the advice they have given to us, and I hope we will continue to listen to that advice as this debate unfolds.

Mr. BARRASSO. Mr. President, I would say to my colleague from Arizona—and there is actually a Mayo Clinic in Arizona, as there is in Florida and as there is in Rochester, MN, which is the home of the Mayo Clinic—one would think, since the President early on talked so much about the Mayo Clinic being a model for health care in the country, the Mayo Clinic might agree with what the President had to say. But if you go to the Mayo Clinic's blogs, they say:

The proposed legislation misses the opportunity—

We have an opportunity now—

to help create high-quality, more affordable health care for patients. In fact, it will do the opposite.

So here you are. The proposed legislation misses the opportunity to help create higher quality, more affordable health care for patients. In fact, it will do the opposite.

Mr. KYL. If my colleague would yield for a quick comment on that point.

Mr. BARRASSO. Absolutely.

Mr. KYL. The Mayo Clinic in Arizona, unfortunately, has had to announce that in several of its key facilities there, it will no longer accept new Medicare patients. Why is that so? Because the government program of Medicare, which our seniors rely on, is getting to the point where it does not

pay physicians what they require just to stay in business, just to have their office practice continue.

The Medicaid Program, which is the other government program, is already so low in its reimbursements to physicians that—the numbers differ, but 50 to 60 percent of physicians are no longer taking Medicaid patients. As a result, these government programs end up getting very close to rationing care because there aren't enough physicians and facilities to take care of the people who are enrolled in the programs. Imposing yet another entitlement for even more people to have this care with fees regulated by the Federal Government and reimbursements at levels too low for physicians to take advantage of will simply continue to drive physicians away from the treatment of the patients they have treated over the years and want to continue to treat.

It would be our hope we could bring the incentive for physicians to continue to treat these patients, rather than the disincentives the Mayo Clinic is pointing to in backing out of the treatment of folks in Arizona.

Mr. COBURN. Mr. President, if the Senator will yield, one of the important points he made a moment ago is a doctor sitting down and listening to their patient. Mayo has it right. If you are not going to pay us enough to sit down, we refuse to practice medicine the way Medicare is directing us to practice: Listen a little bit and then cover it with tests.

The reason costs are out of control is because Medicare wouldn't pay for a physician to sit down and truly listen and come to a centered point on what the patient's problem is and the way to get around it. Consequently, what we have seen in the Medicare Program is doctors have to see so many patients that they don't get to listen to them and they consequently cover that lack of listening by ordering more tests.

What do we know about tests? We know we order \$¼ trillion worth of tests every year that aren't needed. There are two reasons we are ordering them. No. 1, the reimbursement to sit down to listen to the patient is so low the doctors can't afford to take the time to cover the test; and No. 2 is the threat of tort litigation. So now we are ordering tests not for patients, but we are ordering them for doctors. If we want to change health care, we have to drive costs down. I am proud Mayo recognizes we are not going to sacrifice our quality, so, therefore, we are saying: No, we are not going to take any more Medicare patients because we can't do it in a way that lends a quality outcome at an appropriate cost.

Mr. KYL. Mr. President, I remember sitting back in the cloakroom and listening to Dr. COBURN when he was talking about how he treats patients who come into his office. A child, he said, comes in who has had a fall on the playground and the parents, understandably, are very concerned. Dr. COBURN said to me: If I just sit down

and talk to that young man, that child, talk to his parents for a while, I can usually figure out what kind of treatment is going to be necessary without necessarily ordering a bunch of tests. But under the medical malpractice situation we have to work under today, I am almost required to order those tests or, if something should go wrong, be accused of malpractice. I wonder if my colleague could relay that story.

Mr. COBURN. Every summer, we have thousands of kids hit the ER, whether they ran into a pole or they had a baseball bing them in the head. The standard of care now is to put that child through a CT scan. These are children the vast majority of whom have no neurologic signs whatsoever. But now we are not only spending that \$1,200 per child, we are exposing those children to radiation they don't need.

So there are two untoward events for what has happened as we see the hijacking of medicine by the trial bar. No. 1 is we spend a whole lot more money unnecessarily, but No. 2 is we are actually now starting to hurt people by exposing them to radiation they don't need.

That is another cost. We know we can bring down costs if we change the tort system in this country to one that is sensible and reasonable and still allows, when doctors make mistakes, for them to be compensated for their economic damages and the harm that was caused to them. No one is saying we should eliminate that. What we are saying is, it should be appropriate and in a venue that represents the real risks without disturbing the practice of medicine because we cannot afford it, and the children who are getting these tests, their bodies cannot afford it. It is just common sense that we would go that way.

I wonder if the Senator will yield for a moment before we lose our time that I might discuss the amendment I am going to have up in a moment.

Mr. KYL. Mr. President, might I just inquire how much time remains on the Republican side?

The ACTING PRESIDENT pro tempore. There is 3 minutes 15 seconds remaining.

Mr. COBURN. Mr. President, I ask unanimous consent to take that time, if I may.

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

#### TAX EXTENDERS ACT

Mr. COBURN. Mr. President, we are going to have an amendment on the floor in just a moment that simply requires the Senate to post every time they create a new program and every time they spend money outside of pay-go so that we truly are transparent with the American people about what we are doing.

With great fanfare, we passed pay-go. We made it a statute. The last three bills in a row, we have allocated up to

\$120 billion outside of pay-go. With all the claims, with all the fanfare, we said we are going to now start paying for everything we do, and the first three bills to come before the Senate, what do we do? We simply say: Rules off; doesn't count; we are going to spend our grandkids' money.

For the life of me, I do not understand the controversy around this amendment. It is about us being transparent with the American people. No more games. No more saying we are doing one thing and doing another. All this amendment says is, when we violate our own rules and we spend money we do not have and we do not pay for programs by eliminating programs that are not effective, that are not a priority, that we are going to list it on our Web site. Nothing could be simpler.

We have offered the Secretary of the Senate our staff to do that work. It takes about 5 minutes a day to post that information and probably 5 minutes every third or fourth day. We will happily pay for that or we will offer one of our staff to put that information on the computer.

We are going to have a side-by-side amendment that does nothing. We understand that. That gives people a way to not vote for our amendment.

If we want to solve the problems in America and we want to solve our financial problems, the first thing we have to do is have real information about what this body is doing. This amendment will do that.

I yield back the remainder of our time.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that my amendment No. 3431 be in order when we return to H.R. 4213, with up to 10 minutes to speak regarding that amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. Mr. President, I object on behalf of the managers who are not present at this time.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. NELSON of Nebraska. Mr. President, I still ask for up to 10 minutes to speak on behalf of this amendment, even though the action has been heard and registered.

The ACTING PRESIDENT pro tempore. The Senator may speak.

Mr. NELSON of Nebraska. The amendment I rise today to speak on is straightforward. It would provide an offset for all known emergency provisions included in the bill, H.R. 4213. The amendment would direct the Office of Management and Budget to rescind \$35 billion in unobligated American Recovery and Reinvestment Act funds on a prorated basis. The amendment would exclude military construction and veterans affairs stimulus funding from the rescission.

This rescission would offset all remaining nonemergency items in the