

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 President, I ask unanimous consent the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent the Senate 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.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

• Mr. UDALL of Colorado. Mr. President, due to the fact that I was ill and concerned for others traveling on the same airplane to Washington, DC, I was unable to cast a vote for rollcall No. 1 in the second session of the 111th Congress, the nomination of Beverly Baldwin Martin, of Georgia, to be a U.S. Circuit Judge for the 11th Circuit. Had I been present, I would have voted "yea" to confirm the nominee. •

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS BRIAN R. BOWMAN

Mr. BAYH. Mr. President, I rise with a heavy heart to honor the life of PFC Brian R. Bowman from Waveland, IN. Brian was 24 years old when he lost his life on January 3 when insurgents attacked his unit in Ashoq, Afghanistan. Brian was serving as a medic in the 1st Battalion, 12th Infantry Regiment, 4th Brigade Combat Team, 4th Infantry Division at Fort Carson, Colorado, as a part of Operation Enduring Freedom.

Today, I join Brian's family and friends in mourning his death. Brian will forever be remembered as a loving son and friend to many. Brian is survived by his devoted wife Casie, his father Robert Bowman and mother Paula J. Gerdes, two sisters and countless friends and relatives.

Brian was a Crawfordsville native who grew up in Waveland. Prior to entering the service in August of 2006, Brian graduated from Southmont High School in 2004. A gifted musician, he played the baritone for the Royal Mounties who were perennial contenders in the Indiana State Fair's band competition. His father said that he gave up sports to be in the band because he loved music.

While we struggle to express our sorrow over this loss, we can take pride in the example Brian set as a soldier, a husband, a son and a brother. Today

and always he will be remembered by family, friends and fellow Hoosiers as a true American hero, and we cherish the legacy of his service and his life.

As I search for words to honor this fallen soldier, I recall President Lincoln's words to the families of soldiers who died at Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here."

It is my sad duty to enter the name of Brian R. Bowman in the RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. I pray that Brian's family finds comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Brian.

CELEBRATING MARTIN LUTHER KING, JR.'S BIRTHDAY

Mr. CARDIN. Mr. President, I wish today to honor the life of Dr. Martin Luther King, Jr.

I would like to take this opportunity not only to talk about the man but also the movement. During a time of segregation, violence, unnecessary bloodshed, and ignorant bigotry, a man named Martin Luther King, Jr., graced the world with his poignant determination for peace. His life continues to inspire not only Americans but the world in continued efforts for equality amongst all men and women.

This week the Nation reflects on Dr. King's life and legacy. I remember being a young man during his lifetime. I remember not only the struggles he faced but the justice he longed for. As I reread Dr. King's letter from Birmingham Jail, where he wrote about trying to explain to one's child why she can't go to a public amusement park because she was Black; where he wrote about the humiliation of nagging signs that read "white" and "colored;" where he wrote about the internal fight against a "degenerating sense of nobodiness," I ask our Nation not to return to such a time but instead continue to move our Nation forward in accepting all people.

While Dr. King was fighting for national civil rights, I was growing up in Baltimore City, MD. I attended a segregated public school, and I remember with great sadness how discrimination was not only condoned but, more often than not, actually encouraged against Blacks, Jews, Catholics, and other minorities in the community. I remember the local movie theater denying admission to African Americans. I remember the community swimming pools that had signs hanging that read, "No Jews,

No Blacks allowed." In the wake of death threats, physical attempts on his life, home bombings, and jail time, Dr. King fought for the rights Americans hold so dear. He fought for the right to vote, the right to equal access, the right to an equal education, and the right to be treated and seen as an equal.

More than 40 years later, our Nation has made significant progress. We have elected our first African-American President, we have women running Fortune 500 companies, we have the first female Speaker of the House, we have our first Latina Supreme Court Justice, and many more accomplishments have occurred. And while we have come a long way from segregated lunch counters and firehouses and dogs being unleashed on protesters, we still have not reached the mountaintop. There are still laws, policies, and negative perceptions that infringe on individual civil rights.

The issues of today are not so different than the issues of Dr. King's time. We are at war. There is discrimination. There are disparities. There is hate. We must fight and expose these injustices. Dr. King believed that you must expose injustices "with all the tension its exposure creates." We must take up these issues. We must address health care disparities, discrimination in all forms, abuses in our criminal justice system, and bad legislative policies. We must not shy away from what great people before us worked so hard to bring to light. This is not the time for what Dr. King called the "moderate." This is not the time for those who say they agree with us in the goal but fail to take direct action. This is the time for action against injustices.

When more than 40 million Americans don't have access to quality health care, an injustice has occurred. When Americans receive discriminatory sentencing, an injustice has occurred. When Americans are subjected to discriminatory lending, an injustice has occurred. When hate crimes are perpetrated, an injustice has occurred. When our country uses torture, an injustice has occurred. When any form of discrimination is used, an injustice has occurred.

So I ask my fellow colleagues in the Congress and my fellow Americans nationwide, as we start a new year, a new decade, remember that "human progress never rolls in on wheels of inevitability; it comes through the tireless efforts of men willing to be co-workers with God . . ." Stand with us as we take up the controversial issues of the day—immigration, employment nondiscrimination, pay equity for women, hate crimes, sentencing reform, education reform, and remember such actions are taken in dedicated efforts toward a more loving and just union.

Dr. King said that the ultimate measure of a man or woman is not where he or she stands in the moments of comfort and convenience, but where

he or she stands at times of challenge and controversy. He stood up and fought for what was just in a world of controversy. I ask you all to stand up on the shoulders of Dr. King and fight for the elimination of hate and discrimination. Dr. Martin Luther King, Jr., will always be remembered for his courage, elegance and tireless endurance for the fight of equality in America.

PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2009

Mr. COBURN. Mr. President, I ask unanimous consent that these letters commenting on the Patient Protection and Affordable Care Act of 2009—the majority's "health reform bill"—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PHYSICIAN ORGANIZATIONS THAT OPPOSE SENATE'S PATIENT PROTECTION AND AFFORDABLE CARE ACT

To date 43 state, county and national medical societies, representing nearly one-half million physicians, have stated their public opposition to the Senate healthcare overhaul bill, the Patient Protection and Affordable Care Act (H.R. 3590).

NATIONAL MEDICAL ASSOCIATIONS

American Academy of Cosmetic Surgery, American Academy of Dermatology Association, American Academy of Facial Plastic and Reconstructive Surgery, American Academy of Otolaryngology Head and Neck Surgery, American Association of Neurological Surgeons, American Association of Orthopaedic Surgeons, American College of Obstetricians and Gynecologists, American College of Osteopathic Surgeons, American College of Surgeons, and American Osteopathic Academy of Orthopaedics.

American Society for Metabolic & Bariatric Surgery, American Society of Anesthesiologists, American Society of Breast Surgeons, American Society of Cataract and Refractive Surgery, American Society of Colon and Rectal Surgeons, American Society of General Surgeons, American Society of Plastic Surgeons, and American Urological Association.

Association of American Physicians and Surgeons, Coalition of State Rheumatology Organizations, Congress of Neurological Surgeons, Heart Rhythm Society, National Association of Spine Specialists, Society for Vascular Surgeons, Society of American Gastrointestinal and Endoscopic Surgeons, Society for Cardiovascular Angiography and Interventions, and Society of Gynecologic Oncologists.

STATE AND COUNTY MEDICAL ASSOCIATIONS

Medical Association of the State of Alabama, Arizona Osteopathic Medical Association, California Medical Association, Medical Society of Delaware, Medical Society of the District of Columbia, Florida Medical Association, Medical Association of Georgia, and Kansas Medical Association.

Louisiana State Medical Society, Missouri State Medical Association, Nebraska Medical Association, Medical Society of New Jersey, Ohio State Medical Association, South Carolina Medical Association, Texas Medical Association, and Westchester (NY) County Medical Society.

DECEMBER 7, 2009.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR REID: The undersigned state and national specialty medical societies are writing you on behalf of more than 92,000 physicians in opposition to passage of the "Patient Protection and Affordable Care Act" (H.R. 3590) and to urge you to draft a more targeted bill that will reform the country's flawed system for financing healthcare, while preserving the best healthcare in the world. While continuance of the status quo is not acceptable, the shifting to the federal government of so much control over medical decisions is not justified. We are therefore united in our resolve to achieve health system reform that empowers patients and preserves the practice of medicine—without creating a huge government bureaucracy.

H.R. 3590 creates a number of problematic provisions, including:

The bill undermines the patient-physician relationship and empowers the federal government with even greater authority. Under the bill, 1) employers would be required to provide health insurance or face financial penalties; 2) health insurance packages with government prescribed benefits will be mandatory; 3) doctors would be forced to participate in the flawed Physician Quality Reporting Initiative (PQRI) or face penalties for nonparticipation; and 4) physicians would have to comply with extensive new reporting requirements related to quality improvement, case management, care coordination, chronic disease management, and use of health information technology.

The bill is unsustainable from a financial standpoint. It significantly expands Medicaid eligibility, shifting healthcare costs to physicians who are paid below the cost of delivering care and to the states that are already operating under severe budget constraints. It also postpones the start of subsidies for the uninsured long after the government levies new user fees and new taxes to cover expanded coverage and benefits. This "back-loading" of new spending makes the long-term costs appear deceptively low.

The government run community health insurance option eventually will lead to a single-payer, government run healthcare system. Despite the state opt-out provision, the community health insurance option contains the same liabilities (i.e. government-run healthcare) as the public option that was passed by the House of Representatives. Such a system will ultimately limit patient choice and put the government between the doctor and the patient, interfering with patient care decisions.

Largely unchecked by Congress or the courts, the federal government would have unprecedented authority to change the Medicare program through the new Independent Medicare Advisory Board and the new Center for Medicare & Medicaid Innovation. Specifically, these entities could arbitrarily reduce payments to physicians for valuable, life-saving care for elderly patients, reducing treatment options in a dramatic way.

The bill is devoid of real medical liability reform measures that reduce costs in proven demonstrable ways. Instead, it contains a "Sense of the Senate" encouraging states to develop and test alternatives to the current civil litigation system as a way of addressing the medical liability problem. Given the fact that costs remain a significant concern, Congress should enact reasonable measures to reduce costs. The Congressional Budget Office (CBO) recently confirmed that enacting a comprehensive set of tort reforms will save the federal government \$54 billion over 10 years. These savings could help offset increased health insurance premiums (which,

according to the CBO, are expected to increase under the bill) or other costs of the bill.

The temporary one-year SGR "patch" to replace the 21.2 percent payment cut in 2010 with a 0.5 percent payment increase fails to address the serious underlying problems with the current Medicare physician payment system and compounds the accumulated SGR debt, causing payment cuts of nearly 25 percent in 2011. The CBO has confirmed that a significant reduction in physicians' Medicare payments will reduce beneficiaries' access to services.

The excise tax on elective cosmetic medical procedures in the bill will not produce the revenue projected. Experience at the state level has demonstrated that this is a failed policy. In addition, this provision is arbitrary, difficult to administer, unfairly puts the physician in the role of tax collector, and raises serious patient confidentiality issues. Physicians strongly oppose the use of provider taxes or fees of any kind to fund healthcare programs or to finance health system reform.

Our concerns about this legislation also extend to what is not in the bill. The right to privately contract is a touchstone of American freedom and liberty. Patients should have the right to choose their doctor and enter into agreements for the fees for those services without penalty. Current Medicare patients are denied that right. By guaranteeing all patients the right to privately contract with their physicians, without penalty, patients will have greater access to physicians and the government will have budget certainty. Nothing in the Patient Protection and Affordable Care Act addresses these fundamental tenets, which we believe are essential components of real health system reform.

Senator Reid, we are at a critical moment in history. America's physicians deliver the best medical care in the world, yet the systems that have been developed to finance the delivery of that care to patients have failed. With congressional action upon us, we are at a crossroads. One path accepts as "necessary" a substantial increase in federal government control over how medical care is delivered and financed. We believe the better path is one that allows patients and physicians to take a more direct role in their healthcare decisions. By encouraging patients to own their health insurance policies and by allowing them to freely exercise their right to privately contract with the physician of their choice, healthcare decisions will be made by patients and physicians and not by the government or other third party payers.

We urge you to slow down, take a step back, and change the direction of current reform efforts so we get it right for our patients and our profession. We have a prescription for reform that will work for all Americans, and we are happy to share these solutions with you to improve our nation's healthcare system.

Thank you for considering our views.

Sincerely,

Medical Association of the State of Alabama,
Medical Society of Delaware,
Medical Society of the District of Columbia,
Florida Medical Association,
Medical Association of Georgia,
Kansas Medical Society,
Louisiana State Medical Society,
Missouri State Medical Association,
Nebraska Medical Association,
Medical Society of New Jersey,
South Carolina Medical Association,
American Academy of Cosmetic Surgery,
American Academy of Facial Plastic and Reconstructive Surgery,