We know that what the Senator from New Jersey and I experienced up at Exxon Valdez some 20 years ago was not adequate, so that is why we passed the legislation. It should be upgraded. Certainly, we need to raise these limits. Where it should be raised, I don't know. I don't know where the cap should be. We are going to have to find out as this thing moves along.

I would only say this: If you have it up too high, you are going to be singling out BP and the other four largest majors and the nationalized companies, such as China and Venezuela, and shutting out the independent producers. I don't want that to happen. Let's wait and see where that cap should be.

Mr. MENENDEZ. Would the Senator yield for a question?

Mr. INHOFE. I would, yes.

Mr. MENENDEZ. I thank the Senator for yielding.

So is it my understanding that because of your concern about these other independents, let's call them, you would allow them—if they were the cause of this incident—to limit their liability just because they are small?

Mr. INHOFE. No. My answer to the question is, as I said, we don't know where that cap should be. You are coming up with a cap that might end up being the appropriate cap for everyone. But my understanding now would be that the only ones who would be able to live up to that cap would be the five majors and the nationalized companies. If that is the case, yes, I would say we need to have that opened so that we are not just allowing the majors as opposed to the independents. But let's wait and see where the cap should be. Maybe it should be that high. We don't know yet, President Obama doesn't know yet, and I don't know yet. That is the reason I object.

Mr. MENENDEZ. Will the Senator yield for one more question?

Mr. INHOFE. You can ask, but I am going to have to leave here. Go ahead.

Mr. MENENDEZ. If, in fact, it is—I think everybody clearly believes this consequence in damages is at least $10 billion—some have suggested it should be an unlimited cap. If that is the figure, your concern wouldn't stop you from putting it at that figure and making sure all the independents——

Mr. INHOFE. I would repeat, it is too early to come up with a figure, and I think the President agrees with that. Let's see what kind of cap should apply.

HEALTH CARE REFORM

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I wish to speak for a few moments this morning about a subject that is on the minds of many Americans and I think should still be on the minds of everybody in this Chamber because the health care bill that was passed and signed into law recently is going to have impacts across this country for some time to come.

I am interested in the discussion that has occurred here on the floor of the Senate over the past several weeks, as Senator BARRASSO from Wyoming—who also happens to be an orthopedic surgeon, a physician—has come to the floor to engage in a series of remarks, what he calls the ''second opinion.'' I think his second opinion series of remarks here on the floor has been extremely well pointed in illustrating, in many respects, what is wrong with the health care bill and why this is not something that is going to improve the lives of most Americans but, in fact, is going to worsen the lives of most Americans because they will be faced with higher health care costs, higher taxes, and probably higher deficits for years and years to come.

There is a lot of supporting data now, validation of those arguments we heard during the course of the health care debate. The Democrats, who were supporting it, as was the President, said this health care legislation was going to, No. 1, reduce health care costs for most Americans, and No. 2, reduce the deficit. Of course, they talked a lot about how it was going to extend the lifespan of Medicare as well, even though they were cutting Medicare and using those funds to create a new entitlement program. So all those promises made by the President and made by the Democrats here in the Senate when we were debating health care are now all being completely rebuffed by evidence that comes out all the time from those who study this issue closely.

Frankly, as we get more and more businesses trying to figure out how to interact with this new health care legislation, they are coming to the conclusion that it might be cheaper for them in the long run to drop their coverage and put everybody in the government plan, which is what we predicted would happen all along.

But I think probably the biggest bombshell—certainly the most damning piece of evidence—came out just a few weeks ago when the Actuary of Health and Human Services, HHS, came out with his analysis of the financial impacts the new law would have once it was passed and implemented. I wish to share a few things from that report because I think it is very important. It does, as I said before, illustrate exactly what Senator BARRASSO and others said throughout the course of the debate in the Senate when health care was under consideration.

The Actuary of the Department of Health and Human Services—bear in mind, this agency is supposed to look at these things in a totally objective, nonpolitical way—the Actuary concluded that the Federal Government and the country will spend $310 billion more under the new law than we would have without it. The Actuary's report went on to say that national health expenditures would increase from 17 percent of GDP, which is what it is today, to 21 percent under the new law. But what is interesting about this is that the $310 billion increase in health care costs they now say will result from the passage and implementation of this legislation is more than what would have happened had we done nothing. Had this body done nothing in terms of health care reform, health care costs would have gone up less than they will with this legislation. As I said before, this completely refutes any argument made by the other side during the course of this debate that their legislation would, in fact, drive down health care costs.

The Actuary has now concluded the point that we made throughout the course of the debate; that is, that health care costs will go up, not down; the cost curve will be bent up, not down; and for most Americans, health insurance premiums are going to go up as a result of this legislation. That is what the Actuary is now saying.

What is even more interesting about that report is it goes on to say that health care shortages and price increases are ''plausible and even probable'' under the legislation. The report suggests there will be perhaps as many as 15 percent of Part A providers—Part A providers are hospitals—that will become unprofitable within the 10-year projection period absent further legislative action.

In other words, up to 15 percent of hospitals would have to close as a result of this legislation. Because of that, the report says the law will jeopardize ''access to care for seniors.'' So all these promises about greater access, lower cost—the promises that were made during the course of this debate—are being completely now rebutted by the report that the Actuary came out with just a couple of weeks ago.

The other thing I think is important—we emphasized this as well during the debate—the Actuary concluded that new taxes that are going to be imposed on medical devices, on prescription drugs and insurance plans, were generally passed on through to consumers in the form of higher drug and device prices and higher insurance premiums.

Remember, during the course of the debate we said all the new taxes that will be levied on medical device manufacturers, pharmaceuticals, health insurance plans, would be passed on. This is clearly what they are suggesting as well. So not only do we get the double whammy, we get the whammy of higher insurance premiums, but we get the double whammy of higher taxes that are going to be borne by a lot of people across the country. That also is being substantiated and supported by the Joint Tax Committee, which took a good look at the distribution of the impacts of the tax increases in this bill. A lot of Americans are going to see their tax burdens go up as well.

With respect to the issue of the deficit—which, again, is something I will get to in just a moment—the Actuary notes the bill's Medicare provisions ''cannot be simultaneously used to finance other federal outlays—such as the coverage expansions—and to extend the [life of the Medicare] trust fund, despite the appearance of this result from the respective accounting conventions.''

Essentially what they have said is what they said in a letter in response to questions we posed about how this would impact the Medicare trust fund. Basically, the Actuary is saying what the CBO said; that is, you are double counting revenue, you are basically spending the same money twice. In other words, all the additional revenues that are supposed to become available because of reductions in Medicare benefits or reductions in Medicare payroll taxes that were going to extend the life of Medicare and also going to be used to finance the new health care entitlement program—that is what we said all along, and that is double counting. You can't spend the same money twice, and as a consequence of that you are going to see what they promised in terms of deficit reduction can be very different from what actually happens.

They went on to say that the CLASS Act, which is a long-term care entitlement program—described, believe it or not, by one of my Democratic colleagues as a Ponzi scheme of the highest order, the kind of thing Bernie Madoff would be proud of,—will result in net Federal cost in the longer term. The program is designed to someday down the road to pay long-term care benefits for people who pay premiums into that plan and will face significant risk of failure because of the way they are counting the revenue.

It says it is going to be ''a net Federal cost in the longer term'' because, obviously, when you take premiums today to pay for the unrelated provisions in the health care reform law, and then there is a demand for the CLASS Act benefits at some point in the future by the people who paid those premiums, you cannot use those revenues to pay for the benefits because they have already been spent. To assume otherwise is double counting that revenue.

So you have all this double counting that went on in the course of this bill which, again, as I said, understated the overall cost of the bill and also the deficit numbers I think were attached to it.

To me, this study, this analysis was absolutely a bombshell in terms of the impacts of the actual implementation of the health care bill. As I said, it completely refutes all the arguments that were made that it would lower costs, reduce deficits, and it would improve access. All three of those points are refuted by the analysis that was done by the Actuary at the Health and Human Services Department.

More recently, last week about this time, the Congressional Budget Office came out with a new report. They predicted that the health care overhaul will likely cost about $115 billion more in discretionary spending over 10 years than the original cost projections. So the promises that were made about deficit reduction as a result of this—it was going to somehow save $143 billion over a 10-year period—now are reduced by $115 billion because, as we said throughout the course of the debate, it is going to cost a lot to implement this bill both in the form of cost to HHS, as well as cost of the Internal Revenue Service, which is going to be required to now impose the individual mandate that will fall on a lot of people across this country and the penalties associated with that.

So we have all these implementation costs that are going to add an additional $115 billion in spending over the next 10 years which reduce dramatically any promises about deficit reduction, not to mention what I just stated in terms of the double counting that goes on.

My view on this is, not only is it not going to reduce the deficit, it is going to explode the deficit, particularly in the outyears when the demand for Medicare benefits comes and the demands of the trust fund for those people who paid into the fund and reached the retirement age—a lot of the baby boomers are going to require health care, the Medicare fund is going to be tapped for that, and there will not be any money there to pay for this program.

So you have the Actuary at HHS, you have the CBO coming out with new information which completely validates the argument we made during the course of this debate; that is, it is not only going to increase costs for most people across this country and increase taxes, but it is also going to have a detrimental impact on the budget and the deficit over the long term.

One of the promises that was made, the so-called good points in the health care bill, was that small businesses would benefit from a small business tax credit. That is something administration has been trying to sell to small businesses, putting out notices from the IRS that there are 4 million small businesses that could qualify for the small business tax credit. That kicks in in 2010. But, even there, as is now coming out, there is a lot of fine print I don't think people read very well.

The Chamber of Commerce said of all the small businesses in this country, about 78 percent of those small businesses are self-employed people. Self-employed people are not covered. Families are not covered under this. More important, there is a disincentive to hire people. We have an economy where we are trying to get jobs growing and come out of the recession and get people back to work.

This small business tax credit caps it. In other words, if you get up to 25 employees you are no longer eligible for it. If your average wage is $50,000 you are no longer eligible for it. So there is a real disincentive to pay people higher wages or hire more people because if you do, you are not going to be eligible anymore for the small business tax credit. A lot of those small businesses are saying: What benefit is there to me if I want to grow my business? Yes, I can take advantage of it for a short period of time—a very short period of time—but I am not going to be able, if I am at that threshold where I start hitting—first, it says it is available for businesses with fewer than 10 employees, then it phases out at 25.

But if you get to 24 employees and you are thinking: My gosh, I would like to hire another person; I no longer will be eligible for the small business tax credit, or I want to pay my employees higher wages but then I hit the $50,000 threshold—it is a real disincentive to create jobs.

One of the things that is being touted as a positive about this legislation is it is, in fact, a disincentive for us to get people back to work and to create jobs.

The overall impacts of this, I think, that are still out there I don't think we are going to know for some time. In fact, I don't think CBO has any idea about what this is going to cost in the second decade. They have estimates of the cost in the second decade. They can make some predictions, but they will admit there is tremendous volatility about that, and unpredictability, when we get into the second decade.

But one thing we know in the first decade, one thing we are finding out now as we get more analysis being completed, is in the first decade, according to the HHS Actuary, this is going to increase the cost of health care more than if we did nothing.

In other words, if we had done nothing and we still had health insurance costs going up as they were about double the rate of inflation, if we had done nothing we would have locked that in. But now we are going to continue to have health insurance costs going up, not only at that rate but a significantly higher rate to the tune of $310 billion in more, higher health care costs over the course of the decade.

If we look at how that impacts individual people across the country, most Americans are going to see their health insurance premiums go up. In fact, some of the provisions of the bill also, as part of the—it was just reported last week that this provision that would allow people to keep their kids on their health insurance plans until they are 26 years old will, in fact, increase health insurance premiums by about 1 percent. That is something that was hailed as one of the benefits or virtues of this legislation.

My point is, contrary to the assertions that were made during the course of the debate with respect to lower costs, deficit reduction, greater access—none of that, according to these studies and analyses, is going to be the case. In fact, it will be the opposite. We will see higher health care costs for most Americans. We will see higher taxes for a lot of Americans. We will see higher taxes for sure—for certain—for a lot of small businesses. And I think we are going to see a lot of businesses that are going to just say—and we have already seen reports of that, as a lot of these businesses look at the impact this would have on their bottom lines—it will cost them a lot to cover their employees. It might be cheaper to pay the penalty and to just shove them into one of the government-run exchanges. I think that is something we have yet to see the impact from.

My prediction would be we will see a lot of small businesses, and for that matter a lot of large businesses, that will come to that conclusion and say it makes absolutely no sense for them to continue to provide health coverage for their employees when they can have the government do it and save their companies a lot of money.

So I think the unintended consequences are something we have yet to see, but we do know for certain the consequences of this legislation, these analyses that have been completed, and studies that have been done by those who are supposed to know a lot about this subject—by that I mean the Actuary at the Health and Human Services Department, as well as the Congressional Budget Office—they are now seeing higher insurance costs, higher premiums, and a significant reduction in the so-called deficit reduction that was promised by the administration.

Furthermore, because of the double counting that is done and the way in which Medicare revenues are double counted—CLASS Act revenues are double counted—even for that matter Social Security revenues, payroll taxes are double counted in this—dramatically understate the deficit impact and the long-term debt implications of this legislation and what it will mean to the next generation of Americans who are going to be stuck paying our bills.

I say all that, not to be the Grim Reaper. We tried during the course of this debate to illustrate as much as we could these very points. We tried to offer amendments that we thought made more sense in terms of controlling costs; to actually address the actual underlying drivers of health care costs in this country as opposed to just expanding coverage, which is essentially what the legislation did. It will cover more people. In some ways it will cover more people by putting more people into Medicaid which will pass on more mandates and more costs to our States.

We have already seen a lot of Governors across the country reacting to that, talking about that, how we are going to pay for that. But there is an additional 34 million people, additional people, who are supposed to be covered in this legislation; about 16 million of those are already going into the Medicaid Program which already under-reimburses providers and also imposes huge new costs and new burdens on our State governments.

There is not a lot of good news to report about this. I think that is going to be the case. I think, regrettably, we could have gone a different direction. We should have gone a different direction. But that being said, we are where we are. I hope over time we will have an opportunity to revisit this issue. If we do not, it is going to have a dramatic impact on future generations, on our economy, both in the short term and long term, as a result of higher costs built into the cost structure for health insurance, higher taxes that will impact small businesses and families across this country, and higher deficits for which future generations are going to be assessed and have to pay.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

BAILOUTS

Mr. GREGG. Mr. President, I know we are in morning business. But at the conclusion of morning business I will be offering an amendment which I understand is the next one in order. Since there is nobody taking the morning business time, I will take that time to begin the discussion of that amendment.

The amendment which I am proposing goes to this whole issue of who the taxpayers of America should bail out. I personally don't think they should bail out anybody, to be honest with you. They certainly should not be bailing out financial institutions that have gotten too big. They should not be bailing out automobile companies that have overextended themselves and are doing a poor job. They should not be bailing out other countries. They certainly should not be bailing out States and local governments that are about to default on their debt.

It is very hard to explain to a citizen of New Hampshire or Illinois, Connecticut, New Jersey, Pennsylvania, why their tax dollars should go to bail out a State which is about to default on the debt it has run up because it has been irresponsible in its spending. The obvious State that comes to mind is the State of California, which has very serious problems. But they are self-inflicted problems. These are not problems which were created as a result of some general problems across the country, and they were not problems created, for example, by an event—an environmental event or emergency such as Katrina.

They were totally self-inflicted problems. The question is, Should the American taxpayer, all the rest of us in this country, be put in a position where we have to bail out that State? I do not think we should. That is what my amendment is going to go to.

But I see now the Senator from Florida has arrived. He has the morning business time we are in.

I reserve the remainder of my time and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

GULF OILSPILL

Mr. LEMIEUX. Mr. President, I wish to thank my friend and colleague from New Hampshire for allowing me to take some time on the floor this morning. If I may, I wish to speak about an issue that is of great impact to Florida; that is, this oilspill. This is not the first time I have come to the floor to speak about the potential impact this gulf oilspill may have upon the coast of Florida.

I have called upon British Petroleum to set up a $1 billion fund, a replenishing or evergreen fund, if you will, so we can get to work to get ready to prepare, if this oil is to come ashore, to mitigate its effect, to prevent, as much as possible, the oil from coming ashore.

So far, there has been $25 million given to Florida and other Gulf States, another $25 million is coming for advertising purposes. The good news is, we believe the oil is not ashore yet. But there is some disturbing new information.

This morning, I had the opportunity to speak to RADM William Baumgartner of the Coast Guard. Reports yesterday afternoon tell us some tar balls have washed ashore in Key West, FL. That is far ahead of any projections of oil from this spill being put onto the Loop Current in the southern part of the Gulf of Mexico and coming in contact with the southernmost point of Florida. It was not expected that that would happen for several days. But it could be that the oil is far more spread out than we anticipated. It is not unusual for there to be oil to come upon the shore of Florida or any other Gulf States. In fact, it naturally occurs. We know from the Florida Department of Environmental Protection that there were at least 600 reports in the past 2 years of tar balls and things such as that because, as we have come to find out, this is a naturally occurring phenomenon as well, that oil will seep from the ocean floor and potentially come upon our shores in the form of tar balls and other small things.

But the concern is, these 20 tar balls that came upon the shore yesterday in Key West are from the gulf oilspill. If that is the case, the oilspill is far larger and has spread far more quickly than we could have anticipated.

Right now those samples of those tar balls are being sent for research and evaluation to determine whether they are, in fact, from the oilspill that happened now almost 1 month ago. Whether those tar balls are from the disaster or whether they are naturally occurring, we know this oil slick is spreading. We know it is going to get into the Loop Current, the Loop Current which will then bring that oil down close to the Keys, potentially all the way up the Atlantic side of Florida.