

Mr. BUNNING. Mr. President, on rollcall vote 20, I voted "no." My intention was to vote "aye." Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above orders.)

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid on the table, and the President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

#### MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from North Dakota is recognized.

#### JOHNSON NOMINATION

Mr. DORGAN. Madam President, I will be brief. The vote that just occurred was a vote on the nomination of Martha Johnson, of Maryland, to head the General Services Administration. That vote was reported by the committee unanimously to the U.S. Senate on June 8 of last year—June 8 of last year. It has been blocked since that moment, and now we have a vote. We didn't have a vote in July, August, September, October, November, December, or January; we had it now, 7 or 8 months later. After blocking it for 7 or 8 months, 92 Senators voted yes. Explain to the American people how you block a nomination for 7 months that you support. Try to explain that. In my judgment, it is a shameful disrespect for good government to block nominations for month after month after month.

The same is true with individual issues that are brought to the floor of the Senate. I will give you a couple of examples. An appropriations bill was blocked on the floor of the Senate, and then 80 people voted yes. A credit card holders' bill of rights was blocked in the Senate, and then 90 people voted yes. The Department of Defense appropriations was filibustered in the Senate, and then 88 Senators voted yes on that.

If ever there were a demonstration for all to see how unbelievably broken this process is, it is today, once again, that after 7 or 8 months, a very qualified candidate, reported out unanimously from the committee of jurisdiction to head the GSA now gets 92 people to vote yes, which means we have a lot of people who block things they intend to vote for later. It is an unbeliev-

able example of why this place doesn't work. A minimum amount of cooperation, in my judgment, would go a long way to helping make this place work the way it should. This nomination should have taken 10 minutes on the floor of the Senate last June after it was reported out unanimously by the committee of jurisdiction.

If I sound irritated by what is going on, I think a good many Members of the Senate are irritated by what I believe is a show of disrespect for good government.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

#### MEDICAID READJUSTMENT RATE

Ms. LANDRIEU. Madam President, I know that under the previous arrangement, the Senator from Massachusetts will be giving his farewell remarks. I would like to speak for the next 4 minutes prior to him coming to the floor.

I spoke on the floor earlier explaining to my colleagues and providing some additional information about the fair resolution the Senate came to to help Louisiana and any other State that would have been similarly impacted through a very difficult Medicaid readjustment rate. I spoke at length this morning about that.

I want to show this chart that clearly outlines our particular and unique and disastrous situation. Since 1999, and before, the State of Louisiana—and the occupant of the chair was a Governor, so she knows—paid approximately 30 percent of our Medicaid dollars and the Federal Government picked up about 70. We are in the lower one-third of States on a per capita basis and have been since the Civil War, and we remain that way to this day.

What happened after Katrina and Rita was, because of the great generosity not only of this body and the Congress and the former President and the current President and private sector dollars—billions and billions of dollars poured into our State, driving our per capita income up an unprecedented 40 percent. That has never happened in the history of the Medicaid Program. The State that comes closest to a per capita increase, I believe—or several States increased by only 14 percent.

The bottom line is, if our delegation had not sought some fix, some arrangement, some workout of this problem, the people of Louisiana, who have been impacted by the largest disaster in recent memory, would have had to pay \$472 million more for basically the same program. The formula was flawed.

The point I want to make in my final minute is this: I am proud to lead this effort to fix this. The effort was not a secret effort; it was a public effort—called for by the Republican Governor, Bobby Jindal, in a press conference 2 weeks before Barack Obama was sworn in as President—to talk about this issue in a public forum, not a private

forum. It was not a last-minute effort; it started a year ago. It was not a special deal for me; it was a timely and fair resolution for the people of Louisiana—one which they still deserve.

The consequences of failure, in my final 15 seconds, are that the people of Louisiana, if this is not fixed—a health care issue on a health care bill—if it is not fixed, the people of Louisiana will have to either cut \$472 million out of our budget this year—and that is a lot of money out of a budget, even by Washington standards—or raise taxes.

I will continue to come to the floor to speak proudly, openly, and forcefully about this issue. I thank the Senator from Massachusetts for allowing me to clarify a few points.

I ask unanimous consent to have a group of documents printed in the RECORD to substantiate what I have said today.

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

STATE OF LOUISIANA, DEPARTMENT  
OF HEALTH AND HOSPITALS, OFFICE  
OF THE SECRETARY,

Baton Rouge, LA, April 6, 2009.

Hon. CHARLES E. JOHNSON,

*Interim Secretary, U.S. Department of Health and Human Services, Washington, DC.*

DEAR SECRETARY JOHNSON: Since Hurricanes Katrina and Rita struck the gulf coast in 2005, several federal agencies, including the Department of Health and Human Services, have contributed significant financial resources in the recovery effort. Many of the initiatives continue, and we are grateful for the ongoing work being done by HHS to assist Louisiana.

I write today to share with you what seems to be an unintended consequence of the bold financial initiatives undertaken since 2005. Billions of dollars have been infused into Louisiana's economy following the damage caused by the failure of the federal levee system—dollars for which we are grateful, but which we also know are temporary by their nature. Unfortunately, as calculations are performed by the federal government to determine federal participation for Medicaid, it has become clear the federal formula for estimation of federal match for Louisiana has become significantly artificially skewed by the infusion of these dollars into the calculation of per-capita income.

Louisiana's federal match for Medicaid typically has been expected to range somewhere between 69.6 percent and 73 percent with very small variations from year-to-year. However, according to forecasts provided by Federal Funds Information to States (FFIS), and our own calculations, it appears our FMAP will decline for FFY 10 from its current nearly 72 percent to 67.6 percent, and then again for FFY 11 to 63.1 percent. Similarly, our enhanced match for CHIP will decline from 80 percent to 74 percent. According to FFIS, these calculations are based on what appears to be a 42 percent increase in Louisiana's per-capita income from 2005–2007—an increase otherwise not typical by any reasonable definition of income without the inclusion of the multitude of one-time recovery dollars included by the BEA in their calculations.

The federal formula for FMAP is deliberately established by Congress to utilize a three-year running average so as to avoid such sudden spikes or decreases. Even with such safeguards, however, Louisiana is facing the largest decrease in FMAP in the nation, and at an alarming rate, based on currently forecast expenditures, which assume

significant current-year and proposed reductions in spending for the next fiscal year, the lost federal match will annualize to an estimated \$700 million. Importantly, this lost federal revenue is net of the stimulus—meaning it is a reduction from our Medicaid program in addition to the reduction that will take place when the stimulus expires.

The projected major reduction in FMAP will converge by January, 2011 to pose a cataclysmic challenge upon the expiration of the stimulus. Many states are in a position to plan for the loss of stimulus dollars, particularly if their FMAP is remaining in a static state. In fact, FFIS estimates 21 states will see an increase in their FMAP in FFY 11, while other states are protected by the floor. However, with Louisiana literally going from an 80 percent stimulus FMAP rate to a 63 percent FMAP beginning in January, 2011, the sudden decrease is simply not manageable without a sudden and dramatic blow to our program, its providers and, most importantly, to the 26 percent of our population—mostly children—who rely upon the financial solvency of the program.

Louisiana has a very honored tradition of enrolling our lowest income children in health coverage, with only 5 percent of our children currently being estimated to be without coverage. Thanks in large part to the approval of HHS, we expanded access to children up to 250 percent of the federal poverty level in January, 2008, and have enrolled more than 25,000 additional children in our programs since that time. We have been singled out as the state that has the best track record of retaining these children in coverage. Clearly, Governor Jindal is committed to making additional progress in improving the health outcomes for our population, but such significant reductions in federal funding—particularly resulting as a consequence of our hurricane recovery—can only disrupt this program. . . .

Washington, DC, May 4, 2009.

Secretary KATHLEEN SEBELIUS,  
Department of Health and Human Services,  
Washington, DC.

DEAR SECRETARY SEBELIUS: We write to you today to follow up on an April 9 letter to your office from Louisiana Department of Health and Hospitals Secretary Alan Levine regarding potential reductions to Louisiana's Medicaid Federal Medical Assistance Percentage (FMAP).

While many states will face challenges to their Medicaid programs in the coming years, we believe that Louisiana's case is unique. As you may be aware, our state is still rebuilding from Hurricanes Katrina and Rita in 2005 as well as Hurricanes Gustav and Ike in 2008, including the rehabilitation of the healthcare system in the New Orleans area. These extensive recovery efforts have inflated Louisiana's per capita income, but were only temporary and do not accurately reflect the increases to incomes in industries not related to hurricane recovery.

Since the FMAP formula uses per capita income to calculate how much each state will receive in Medicaid funding, we are greatly concerned that the post-hurricane per capita income increases could significantly impact our state's FMAP allocation. We ask that you meet with Secretary Levine to develop a solution to the unique problem that is facing our state.

Sincerely,

Mary Landrieu, U.S. Senator; Rodney Alexander, Member of Congress; Charlie Melancon, Member of Congress; Bill Cassidy, Member of Congress; David Vitter, U.S. Senator; Charles Boustany, Member of Congress; Steve Scalise, Member of Congress; John Fleming, Member of Congress; Anh "Joseph" Cao, Member of Congress.

#### SENATE CONCURRENT RESOLUTION NO. 137

Whereas, in 2005 and 2008, Louisiana was struck by hurricanes Katrina, Rita, Gustav, and Ike, collectively requiring billions of dollars of federal and private assistance to the state; and

Whereas, the people of Louisiana are grateful for the support of the American people and of the United States Congress as the state is recovering from these catastrophic events; and

Whereas, coastal states, such as Florida, Mississippi and Texas, and other states, such as Iowa, have recently experienced significant disasters related to either hurricanes or flooding, and coastal states can reasonably expect to experience similar calamities in the future; and

Whereas, after a disaster resulting in massive and wide spread damage to public and private property, economic activity may temporarily significantly increase as the state and local communities endeavor to rebuild; and

Whereas, due to the increased economic activity resulting from hurricanes Katrina and Rita, Louisiana's per capita personal income saw an unusual and extraordinary increase of forty-two percent from 2005 through 2007; and

Whereas, the per capita personal income for Louisiana grew by six point eight percent from 2000 through 2005; and

Whereas, the bureau of economic analysis of the U.S. Department of Commerce stated in its 2007 report entitled State Personal Income, that "Louisiana grew ten point five percent in 2007, down from twenty point six percent in 2006," and that "these growth rates are substantially higher than any other state"; and

Whereas, the bureau further reported that, "the rental income component of Louisiana personal income was boosted by five point four billion dollars of Road Home subsidies from the U.S. Department of Housing and Urban Development," and that much of the per capita personal income gain in Louisiana "is accounted for by the Road Home subsidies which average nearly twelve hundred fifty dollars per Louisiana resident"; and

Whereas, evidence shows that even though the per capita personal income had grown by forty-two percent from 2005 through 2007, median income has remained stable which indicates that real personal income has not grown in a sustained way; and

Whereas, the bureau of economic analysis captures not only the economic activity generated by the receipt of government disaster relief payments but receipt of insurance payments that would not have occurred but for the hurricanes—activity which, when included in the overall calculations of per capita personal income are extremely difficult to disaggregate for attribution to specific causes as the spending percolates throughout the economy; and

Whereas, the increased economic activity in Louisiana in 2006 and 2007 is clearly a direct result of the rebuilding that occurred in the aftermath of hurricanes Katrina and Rita and this economic activity led to a corresponding increase in per capita personal income in Louisiana in 2006 and 2007; and

Whereas, accurate considerations of per capita personal income are important because federal law establishes the formula by which the FMAP for each state is determined based on a comparison of each state's per capita personal income to the per capita personal income of the United States as calculated by the bureau of economic analysis; and

Whereas, when a state's per capita personal income increases relative to the average of the United States, the state's FMAP decreases; and

Whereas, according to the federal formula, the increase in per capita personal income in Louisiana in 2006 and 2007 will have the unintended consequence of reducing Louisiana's FMAP for federal fiscal years 2010 and 2011; and

Whereas, Louisiana's FMAP will decrease to 67.61% in federal fiscal year 2010 and to 63.16% in federal fiscal year 2011, a total decrease of 6.53% over two years, the largest decline of any state; and

Whereas, Louisiana's FMAP is temporarily enhanced to eighty percent as a result of the enactment of the American Recovery and Reinvestment Act of 2009 (ARRA), but that enhanced FMAP will terminate on December 31, 2010; and

Whereas, Louisiana's FMAP will drop precipitously from eighty percent to sixty-three point sixteen percent on January 1, 2011, and this loss in federal match will annualize to approximately one billion dollars; and

Whereas, Louisiana has demonstrated a significant commitment to its programs for providing health care access to the poor by investing in substantial sums of state general fund dollars through Medicaid, SCHIP and a statewide system of public hospitals, all of which to combine to provide a safety net for a state with low income and significant provider access problems, and such a drastic reduction in Louisiana's FMAP will have devastating impact on the state's infrastructure for caring for the poor; and

Whereas, the presumed purpose for using the per capita personal income as a basis for the calculation of FMAP is to ensure resources are directed to states which are more likely to have low-income populations, and thus, a more significant burden on the Medicaid program; and

Whereas, Louisiana's Medicaid program has not seen a decrease in enrollment after hurricanes Katrina and Rita, but rather an increase, and thus, from an economic perspective, it is clear the purpose for utilizing per capita personal income as the primary driver of the state's FMAP cannot be accurately and fairly applied to Louisiana during the period following the temporary increase in economic activity; and

Whereas, the Louisiana Legislature does not accept that it is the intention of the United States Department of Health and Human Services or the United States Congress, through an artifact of the FMAP formula, to financially penalize Louisiana and other states working to rebuild their communities after major disasters. Therefore, be it

*Resolved*, That the Legislature of Louisiana memorializes the Congress of the United States to enact legislation to adjust the Federal Medical Assistance Percentage rules to ameliorate the unintended negative impact caused by the infusion of disaster relief funding, both public and private, into Louisiana's and other state's economies following major disasters. Be it further

*Resolved*, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

Ms. LANDRIEU. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KIRK. Madam President, I ask unanimous consent to speak for the time I may consume.

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

## PUTTING POLITICS ASIDE

Mr. KIRK. Madam President, I rise for the honor of speaking on the floor of this Senate Chamber for the last time. With the swearing-in of Senator-elect SCOTT BROWN of Massachusetts scheduled for later this afternoon, my time as a Senator is nearing its close.

I repeat for the record, my most sincere congratulations to SCOTT BROWN on his impressive victory. We have worked together to assure that he and the people of Massachusetts were well served during the transition, and I wish him all the very best in his service to the Senate.

Under the saddest of circumstances—the loss of our colleague and our close friend Senator Ted Kennedy—my appointment to this office has allowed me to serve my Commonwealth and country in ways I could not have imagined a few months ago. It has enabled me to work closely with many old and new Senate friends—women and men who have been sent by their constituents to work together to make our Nation a better place.

These months have helped me to understand even more personally why Senator Ted Kennedy devoted his public life to the work of the Senate, why he took such pride in its history and its accomplishments, why he reached across the aisle to find common cause with allies who shared his hopes, and why, from time to time, he called upon this body to reach beyond the politics of the moment to achieve a greater good for the country's future. The lessons of his legacy will live on in this Chamber and in the institute devoted to the study of the Senate that will bear Ted Kennedy's name.

I discovered when just a boy how emotionally difficult it was to say goodbye. So I learned to use two other words that come much easier at times such as this. Those two words are "thank you."

I was not elected to this post, but I am deeply grateful to the people of Massachusetts who, through their elected representatives, gave me the opportunity to serve them. Particular thanks are owed to senate president Therese Murray and house speaker Bob DeLeo for their leadership in enabling Gov. Deval Patrick to appoint an interim Senator. I will always be grateful to Governor Patrick for his confidence in me.

It was my special gift to have had Senator Kennedy's trust and friendship since signing on as a member of his Senate staff some 40 years ago. But following his death, to be encouraged by his family—his devoted wife Vicki, his daughter Kara, his son Ted, Jr., and his son PATRICK—to consider an appointment to succeed the man whom they so loved and who achieved so much in this body is an honor for which no words of thanks are adequate.

I will forever be grateful to my friends and colleagues JOHN KERRY, CHRIS DODD, and so many others, for their warm and generous welcome to

the Senate. We shared a bond of sorrow with every other Senator at the realization that, after 47 years of legendary service, Ted Kennedy would no longer be occupying this desk. It was a time of emotional stirring, to be sure. But I found resolve in the certainty that Senator Kennedy himself would be the first to urge us to persevere, and that attention to Senate duties was the most obvious way I could honor his memory.

In undertaking those duties, I thank the majority leader HARRY REID and his entire leadership team for their encouragement, support, and wise counsel. I thank the assistant majority leader, DICK DURBIN of Illinois, for his very generous remarks about me on the floor earlier today.

I thank my Senate freshman colleagues who have been a source of strength to me and I predict will be a source of strength and leadership in this great body in the years to come; to all my colleagues on both sides of the aisle; to the officials of the Senate, the Secretary, the Parliamentarians, the clerks and reporters; to the Sergeant at Arms, the doorkeepers; to the secretaries for the majority and minority and their able staffs; to the Chaplain; and, of course, to the pages. Each and all of you have been extraordinarily thoughtful to me, patient with your tutelage and generous with your kindness and courtesies, and I will remember each of you with affection and appreciation.

Finally, I wish to thank the Kennedy-Kirk staff. The Kennedy staff has enjoyed a reputation of professional excellence through the years. Why? Because they strove to match their boss's unmatched work ethic and his tireless quest for excellence in the Senate. They shared Senator Kennedy's commitment to do all within one's ability to make America a better and more just society and to make a positive difference in the lives of its people.

I am grateful that many Kennedy staffers were willing to stay on as Kirk staffers. It has been my pleasure to share a special bond with them and with the capable young recruits who joined our ranks to begin their public service with this short-term freshman Senator.

My special thanks go to Senator Kennedy's and my chief of staff, Eric Mogilnicki, who managed our collective efforts with calm and competence during months of distraction and heartache; to Barbara Souliotis, director of our Massachusetts office who served Senator Kennedy and the constituents of Massachusetts with devotion and distinction from his very first campaign in 1962 until this very day; and to Carey Parker, with whom I began my own Senate service over 40 years ago. Carey was the loyal and wise legislative assistant constantly at Senator Kennedy's side helping to craft and guide a legislative legacy that shall remain a standard of excellence for the ages.

Madam President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD at the conclusion of my remarks a list of my staff.

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

(See exhibit 1.)

Mr. KIRK. Madam President, these are outstanding public servants who have my heartfelt appreciation and every best wish for the future.

Over 3 months ago, in my maiden speech from this desk, I chose to speak about Senator Kennedy's top legislative priority—to make quality health care affordable and accessible to all Americans. Since then, much has been accomplished in both Houses of Congress to bring us closer to that long awaited goal.

Following the election results in Massachusetts over 2 weeks ago, it was suggested that we let the dust settle before deciding what our next steps should be on health care reform. But we must not let so much dust settle that it buries all the sensible and necessary ideas that have been suggested. Comprehensive health care reform must remain an urgent priority of the 111th Congress.

But before we move forward on the path to health care reform and the many other critical issues that demand our attention, I respectfully submit that the Senate—and by that I mean each individual Senator—must pause to answer this question: Will the majority and minority walk that path together and work together on the business of the people we represent or will the people we represent watch the Senate that belongs to them revert to the calculated, politically polarizing standoff that has alienated the country during these past few months?

With the results from Massachusetts, much has been made of the fact that the numbers have changed in the Senate, and that is true. The numbers have changed. But the American people are asking a more important question: Will anything else change? Will the Democratic majority, despite its still solid numerical advantage, be forced to cling to a 60-vote strategy as the only path to forward progress on matters small and large, procedural as well as substantive? Will the Republican minority misread the Massachusetts results as vindication of a strategy to just say no to any measure proposed by a Democratic President of the United States or by their colleagues on this side of the aisle?

In my first speech from this desk as the 100th Member and the most junior Member and the 60th Democratic vote, I said I was hopeful that a newcomer's perspective would be received as a constructive contribution to the debate and that the debate should not be about one party reaching 60 votes; it should be about 100 Senators reaching out to each other to reform a system that better reflects the true values and character of our Nation.

Now some 4 months later, I feel obliged to repeat this observation to