

remedies provided by current law are not adequate. Those who dismiss the disparity as a consequence of women's "choice of work" ignore the fact that the wage gap exists even in highly skilled industries such as aerospace engineering and network systems and data communications analysis.

The Paycheck Fairness Act would have required employers seeking to pay women less money than their male counterparts to justify the difference with legitimate business factors. It would also have allowed women to compare their wages to those of their colleagues in the same county, not just their own office, providing a larger and fairer pool of comparative examples. And the bill would have allowed women to receive punitive and compensatory damages equal to those in cases of race-based discrimination. We owe it to the hard-working women of the United States, especially in these difficult economic times, when every penny of every paycheck counts, to continue to fight for equality.

I commend the bill's original sponsor, Secretary Clinton, as well as Senator DODD and Senator MIKULSKI, who have worked so hard to bring attention to the issue of gender discrimination in the workplace. I will continue to fight alongside my colleagues for the passage of the Paycheck Fairness Act.

FDA FOOD SAFETY MODERNIZATION ACT—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 247, S. 510, the FDA Food Safety Modernization Act.

Harry Reid, Tom Harkin, Richard Durbin, Jeff Bingaman, Max Baucus, Tom Udall, Jon Tester, Benjamin L. Cardin, Jeanne Shaheen, Frank R. Lautenberg, Herb Kohl, Robert P. Casey, Jr., Jack Reed, Thomas R. Carper, Bill Nelson, Kent Conrad, Carl Levin, Mary L. Landrieu.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 74, nays 25, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—74

Akaka	Feingold	Merkley
Alexander	Feinstein	Mikulski
Barrasso	Franken	Murray
Baucus	Gillibrand	Nelson (FL)
Bayh	Grassley	Pryor
Begich	Gregg	Reed
Bennet	Hagan	Reid
Bingaman	Harkin	Rockefeller
Boxer	Inouye	Sanders
Brown (MA)	Johanns	Schumer
Brown (OH)	Johnson	Shaheen
Burr	Kerry	Snowe
Burr	Klobuchar	Specter
Cantwell	Kohl	Stabenow
Cardin	Landrieu	Tester
Carper	Lautenberg	Thune
Casey	Leahy	Udall (CO)
Collins	LeMieux	Udall (NM)
Conrad	Levin	Vitter
Coons	Lieberman	Voinovich
Corker	Lincoln	Warner
Dodd	Lugar	Webb
Dorgan	Manchin	Whitehouse
Durbin	McCaskill	Wyden
Enzi	Menendez	

NAYS—25

Bennett	DeMint	McConnell
Bond	Ensign	Nelson (NE)
Brownback	Graham	Risch
Bunning	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Wicker
Cornyn	Kyl	
Crapo	McCain	

NOT VOTING—1

Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 74, the nays are 25. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. LEAHY. Mr. President, 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. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURRIS). Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to be allowed to speak as in morning business.

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

Mr. CHAMBLISS. Mr. President, I am an original cosponsor of S. 510, the bill we just invoked cloture on, and as I said before the vote, I was going to actually have to vote against cloture and I would speak after the vote as to why because we were up against a timeline. I wish to take a minute to say I regret to have had to vote against cloture. Now that cloture has been invoked, I guess we will go to the bill, and, hopefully, we can make the necessary changes in it to improve this bill. But, frankly, the bill I originally cosponsored is not the bill that is coming to the floor today. It has been changed in some material ways. As late as this morning there were changes being made, and I understand there are discussions going on right now that may even change it again.

First, let me say that the issue of food safety is an issue that is of primary importance. We need to make sure the food that is put in the retail stores as well as in restaurants and every other location in America is absolutely the safest, highest quality food product anywhere in the world. That has always been our reputation.

But there are some gaps in the food safety inspection program in the United States today that have allowed some things to happen. We had a situation in Georgia 2 years ago where we found salmonella in some peanut butter in a location in south Georgia—a manufacturing location. And while FDA had the authority to go in and make an inspection, the way they actually inspected it was on a contract basis through the Georgia Department of Agriculture. They didn't have the resources to do the real oversight that needed to be done. Here we had a company that had found salmonella in peanut butter with their own inspections and their own product had been sent to their contractor and salmonella was found to be positive, and yet they didn't have to report that to FDA. That has been changed in this bill, but those are the types of gaps it is important to see changed.

What is a problem to me right now is a number of things, not the least of which is the definition of what is a small farmer. Small farmers have been granted an exemption, but that provision was changed as recently as this morning. I understand, also, that it is up for discussion again now. But the definition currently in the bill is that a small farmer is determined to be a farmer with gross receipts smaller than \$500,000. Well, unfortunately, or fortunately, in my part of the world, cotton today is selling at \$1.50 a pound. A bale is 500 pounds. It doesn't take many bales to reach \$500,000 in gross receipts from the sale of cotton, and that doesn't count peanuts and wheat and corn and whatever else may go along with it. So trying to put an arbitrary number such as that, and saying if you have gross receipts in excess of that number the FDA has the authority to come on your farm, but if you have less than that they do not have the authority, I think it is not the proper way to go.

Secondly, with respect to that issue, even if they are exempt as a small farmer, they still have a mandate of a huge amount of paperwork that has to go along with their production on an annual basis. So I don't know what is going to happen with respect to the amendment process. We have heard there may be a filling of the tree and there will be no amendments. I hope that is not the case. I hope we have the opportunity to have an unlimited amount of amendments and that we can get the bill corrected and can then make it, at the end of the day, a good bill that will generate a significant vote on this floor. We have also heard there may be no amendments that are

going to be allowed and, obviously, without a definite understanding on that, I had to be opposed to the bill.

Let me say one other issue that concerns me is an amendment that was filed by Senator TESTER. I know his heart is in the right place, but no less than about 30 national agricultural groups wrote a letter to Chairman HARKIN, as well as to Ranking Member ENZI, on Monday saying they were opposed to that amendment and, if it is included in the bill, they are going to be opposed to the bill. That again is one of these eleventh-hour issues that remains undecided.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the letter to which I just referred.

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

NOVEMBER 15, 2010.

Hon. TOM HARKIN,
Chairman—Health, Education, Labor and Pensions (HELP) Committee, Washington, DC.

Hon. MICHAEL B. ENZI,
Ranking Member—Health, Education, Labor and Pensions (HELP) Committee, Washington, DC.

DEAR CHAIRMAN HARKIN AND RANKING MEMBER ENZI: The safety of this nation's food supply is the highest priority for the food and agricultural organizations represented on this letter. As the Senate advances sound public policy to maximize public health and ensure consumer confidence in our food safety system, we understand the Senate may consider amendments to S. 510, the "Food Safety Modernization Act," that would exempt certain segments of the food industry from food safety requirements contained in this legislation. In particular, we understand that these amendments target exemptions based on the size of farms and type of marketing operation.

The undersigned organizations represent the vast majority of growers, producers, shippers, distributors, processors, packers, and wholesalers, and the vast majority of our members are small businesses. We believe an operation's size, the growing practices used, or its proximity to customers does not determine whether the food offered is safe. What matters is that the operation implements prudent product safety practices, whether the product is purchased at a roadside stand, a farmers' Market, or a large supermarket. We support FDA food safety programs developed through a scientific, risk-based approach and that benefit public health.

For the public to have confidence in the food safety system, Congress and federal regulators must bring all segments of the food production and processing system into compliance with national safety standards. We believe technical assistance, training, extended transition timeframes for compliance, and financial support are more appropriate ways to assist small businesses throughout the food distribution chain to comply with important food safety standards. We urge the Senate to incorporate these types of provisions into the final bill rather than provide blanket exemptions.

We urge the Senate to reject the notion of providing blanket exemptions for segments of the food industry based solely upon size, location, or type of operation. Consumers should be able to rely on a federal food safe-

ty framework that sets appropriate standards for all products in the marketplace.

Sincerely,

American Feed Industry Association; American Frozen Food Institute; American Fruit and Vegetable Processors and Growers Coalition; American Meat Institute; American Mushroom Institute; California Grape and Tree Fruit League; Corn Refiners Association; Florida Tomato Exchange; Fresh Produce Association of the Americas; Georgia Fruit and Vegetable Growers Association; Idaho Potato Commission; International Dairy Foods Association; National Council of Farmer Cooperatives; National Chicken Council; National Farmers Union; National Grain and Feed Association; National Meat Association; National Milk Producers Federation; National Oilseed Processors Association; National Pork Producers Council; National Potato Council; National Turkey Federation; National Watermelon Association; Pet Food Institute; Produce Marketing Association; Shelf-Stable Food Processors Association; Texas Produce Association; United Egg Producers; United Fresh Produce Association; U.S. Apple Association; Western Growers Association.

Mr. CHAMBLISS. Mr. President, I hope that at the end of the day amendments will be allowed; that we can come up with a bill that is positive and that closes these gaps we have in the food safety inspection program in this country.

Senator KLOBUCHAR and I have worked very hard on a provision that is included in the base bill that will improve the inspection process and make it easier and give more authority and, more importantly, more teeth to the folks who are charged with doing the inspections. If that is the case, and we can get the right amendments done, then perhaps we can get a true bipartisan bill passed and one we can all feel good about supporting.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

SECOND OPINION

Mr. BARRASSO. Mr. President, a couple of weeks ago, Americans voted. They voted for more jobs, for less spending and, of course, for smaller government. As you know, I have come to the Senate floor week after week to give a doctor's second opinion about the health care law. Polling shows that 58 percent of Americans voting on election day still want to repeal and replace the President's new health care law.

Americans have made it clear they oppose this new policy that put Washington between patients and their doctors. The day after the election, President Obama was asked about his health care law's impact on the election. He didn't seem to understand the message from the American people. It appears to me that the President continues to believe the American people liked his policy but just didn't like his sales pitch.

Well, in the President's first year alone, he participated in 42 press con-

ferences, gave 158 interviews—including 5 Sunday shows all in 1 day—held 23 townhall meetings and had 7 campaign rallies. In fact, there were only 21 days in that entire first year when the President had no public or press events. Clearly, the American people heard the President's sales pitch; they just didn't want to buy his product. Nevertheless, the President and this Congress proceeded to force this new health care law upon the American people, and they paid a heavy price in the 2010 elections when Americans voted for candidates who vowed to overturn the President's new law.

Republicans have listened to the American people and are committed to ensuring that America's health care system continues to remain the best in the world. As a physician, as well as a Member of the Senate, I listened carefully to the discussions and the debate during the entire campaign season. I listened to what candidates had to say on both sides of the aisle, I listened to what Americans had to say all over the country, and I put together something called United Against Obamacare. It is a compendium of comments and statements made by the 13 newly elected Republican Senators to this body who will take office within the next 2 months. Let me read sentences taken from statements each of them made about health care.

I view the health care bill as the single greatest assault to our freedom in my lifetime.

The thing that worries me the most about this bill, 2,000 pages of all kinds of mandates, huge new government control of health care, is that in time—and it won't be much time—the government is going to intervene between patients and their doctor.

That first sentence was by Senator-elect Johnson and the next sentence was from Senator-elect Toomey.

I don't want the government to tell me what is acceptable and unacceptable about my health care options. I want my doctor to tell me what's best for my care.

That statement was made by Senator-elect Boozman.

It is not supported by the American people. They do not want one size fits all health care.

A statement made by Senator-elect Coats.

Government control of health care will reduce competition, limit personal choices, and increase overall costs.

A statement made by Senator-elect Hoeven.

I think premiums will rise, and as people begin to deal with the penalties of Obamacare, we will have more loss of jobs.

That was Senator-elect Rand Paul. Next:

We're becoming less competitive every time government increases the cost of being in business—and if it's a problem for a large business, my small business men and women will have even greater struggles to overcome.

That was Senator-elect Moran. Next:

I do not think that 12 new taxes and cuts to Medicare are in the interest of the people.

That was Senator-elect Kirk.

It's going to bankrupt America, it adds \$2.5 trillion to our debt in the long term.

That is Senator-elect Rubio.

That's why it's important to keep the repeal effort alive. What we owe is not a Republican issue or a Democratic issue. It is an American issue.

Senator-elect Ayotte.

Every possible means must be applied within Congress as well as through the application of the Constitution and the law to stop full implementation of this legislation.

Senator-elect Lee.

I have proposed over a dozen health care solutions to help reduce the cost of health care.

Senator-elect Blunt. And in conclusion:

I can tell you at least one thing coming . . . When it comes time to vote to repeal health care, I vote yes.

Senator-elect Portman.

That is United Against Obamacare and statements made by the men and women who were recently elected to the Senate on the Republican side of the aisle.

We will fight to repeal the law and replace it with legislation that will help patients and providers and taxpayers.

During his recent press conference, President Obama also said that if Republicans have ideas for how to improve our health care system, he would now be happy to consider them. Well, it would have been nice if he had considered our ideas during the last 2 years but better late than never. Since the President was sworn in, Republicans have proposed a host of proposals that will improve health care in America. Today, I wish to walk through some of the Republican ideas that are strongly supported by a majority of the American people.

First, if Congress wanted to truly demonstrate that it got the message—if it truly wanted to demonstrate that it got the message—the House and the Senate would immediately repeal the President's new health care law. Senator DEMINT currently has a bill that would repeal the health care law in its entirety. By passing this law, we could ensure that the American people will get the reform they want.

It is unlikely that Democrats will vote for a straight up-or-down repeal bill, and even less likely that the President would sign it into law. So I wish to talk about other Republican proposals that would eliminate some of the most egregious portions of the President's new health care law.

Senator HATCH of Utah proposed the American Job Protection Act. It repeals the health care law's job-killing employer mandate. It strikes relevant sections in the health care law forcing employers to provide health insurance to their employees or face a penalty.

Senator HATCH has also introduced the American Liberty Restoration Act. It repeals the health care law's individual mandate—the mandate requiring all Americans to buy health insur-

ance. The Federal Government has never before forced the American people to purchase a product, a good, or a service they may not want. We should overturn this unconstitutional mandate.

Senator JOHANNIS introduced the Small Business Paperwork Elimination Act. It repeals section 9006 of the health care law. Section 9006 requires business owners to submit separate 1099 reporting forms for each business-to-business transaction totaling more than \$600 over the course of a year. Small business owners now, with this law, have to file 1099 forms for basic business expenses, such as phone service, Internet service, shipping costs, and office supplies. This only serves to increase the cost to own and to operate a business. Why? Because, according to the law, they will then be able to provide \$17 billion more in taxes to pay for this unwanted health care law.

Senator CORNYN introduced the Health Care Bureaucrats Elimination Act. It repeals the health care law's Independent Payment Advisory Board. This bill would remove the unelected, unaccountable bureaucrats from their position of making Medicare payment and reimbursement decisions.

Senator ENZI offered the grandfather regulation resolution of disapproval. This resolution overturns a new Obama administration health care law regulation. President Obama repeatedly promised: If you like what you have, you can keep it. This so-called grandfather regulation breaks that promise. The new regulation was supposed to spare businesses already providing health insurance to their workers many of the higher costs of new mandates imposed by the health care law. If businesses lose this so-called grandfathered status, then they will be required to comply with all the new insurance mandates in the law. This includes requirements to offer a Federal minimum benefit package and to waive copayments for certain services. This will force our small businesses to change plans and increase costs.

In fact, the regulation—and it is a regulation where they took two pages of the law and blew it into 121 pages of regulations—the regulation estimates that fully 80 percent of small businesses can expect to lose their grandfathered status based on the extensive regulations the administration wrote. This is a job-killing, wage-cutting regulation. Certainly, this is not the reform the American people were promised.

Also, just this week, Leader MCCONNELL is filing an amicus brief regarding the health care litigation that is currently pending in Florida's Federal court. His brief argues that the individual mandate is not authorized by Congress and that the Government cannot use the commerce clause to force citizens to buy a product.

This list of ideas represents only a fraction of the Republican ideas currently on the table. If the President is

serious about working with us, he will consider our constructive proposals. If not, he will continue to see the American people strongly speak out against his expensive, overreaching, and ideological agenda.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, I know Senator BARRASSO is relatively new in Washington, House or Senate. I appreciate his words. I am not talking about him. But there are so many opponents of this health care legislation.

First of all, regarding some of the partisan opponents of this law—the American people do not want to see us relitigate and redebate the health care legislation. They want some focus on job growth. But what strikes me as a bit hypocritical—again, I am not singling out Senator BARRASSO because he has not been here very long—there are so many Members in the House of Representatives and in the Senate who have enjoyed government health care for a decade or two or three, where taxpayers paid for their health care. Those conservative Members did nothing, zero, to help those people without insurance, to help those people who had preexisting conditions, to help those people close the doughnut hole, help senior citizens to get help on their drug costs.

Now they want to repeal the health care bill. In other words, they want to keep their government insurance for themselves, but they don't seem to want to help anybody else out there. It just sickens me.

More important, I don't think the public wants us to continue debating health care. The public wants us to work on job growth, to focus on things like I did in Ohio Monday where I gathered 300 small businesses, people who make things, who want to sell to major aerospace manufacturers, in this case Airbus in my State, putting people to work—because that is what it is all about.

Mr. President, I want to speak for a moment about food safety. It is tempting to take the safety of our food supply as given, but it is actually more a goal, one that continues to elude us. Each year in the United States 76 million people contract a foodborne illness. Some get mildly sick, some get very sick, a few actually die. The Centers for Disease Control and Prevention estimates that more than a few, 5,000 people a year, die from foodborne illness. These are mostly not people in their thirties who are healthy. It is the very young, very old, those whose health may be frail, whose health may not be as strong as others'. Nonetheless, 5,000 people die a year.

Over the last few years we faced melamine in infant formula, harmful seafood from China, tainted peppers from Mexico, E. coli in spinach, Salmonella in peanuts. Sometimes it is international problems. Sometimes it is domestic problems. International problems mean we ought to be looking at

trade policy closer than we have, but that is a debate for another day.

A few months ago we had a nationwide recall of eggs due to *Salmonella* contamination. Just this week we saw a recall of smoked turkey breast products because of *Listeria* contamination. The safety of Americans is threatened by a regulatory structure that has failed to keep pace with modern changes in food production, processing, and marketing.

We have at our grocery stores a wonderful thing. We have all kinds of selections: fresh fruits and vegetables and fish and all kinds of foods we didn't have when I was growing up in the 1960s in Mansfield, OH. We did not have that kind of selection in food stores, especially in the winter months. Now we do. That is a great thing, but we don't do what we need to do to guarantee its safety.

It is time to fix this broken system once and for all. The time has come for Congress to pass legislation that will in fact improve our country's food safety system. America's families should be able to put food on the table without fearing any kind of contamination. We shouldn't worry that the food in the school cafeterias, ballparks, grocery stores, or local restaurants will send a child to the hospital and spread panic throughout the community.

That is why I am so pleased we are considering the Food Safety Modernization Act. This legislation will address—I will talk briefly about it and then yield to my colleague from Delaware, Senator CARPER—some of the problems with our current food safety system. It will require facilities to conduct an analysis of the most likely food safety hazards and design and implement risk-based controls to prevent them. It would increase the frequency of plant inspections. It would strengthen recordkeeping requirements and food traceability systems so we know where the food came from before it gets to the grocery store. It provides the FDA with the authority to mandate food recalls, something that is voluntary now.

Most companies step forward and do it. Some do not. Some delay before they do, imposing health risks. It would ensure further study by the FDA on enhanced safety and sanitary methods for the transportation of foods, and we must ensure this includes an examination of the pallets on which our food is shipped.

At home you don't use the same cutting board for chicken that you use for vegetables, or at least you should not, because of potential food safety problems. It is the same thing with these wooden pallets because they can collect—especially wooden pallets—way more bacteria than you can imagine. We require more extensive provisions for heightened security of imports which account for an increasing share of our fresh fruits and vegetables, an increasing share of U.S. food consumption.

This bill is here today because of the strong work especially of Senator DURBIN of Illinois and Representative JOHN DINGELL of Michigan. Also, I commend Ranking Member ENZI on the HELP Committee and Chairman HARKIN and Senators DODD, BURR, and GREGG for their work.

I also commend the Kroger Company based in Cincinnati, OH, for the work they and other grocery store chains and other food processing companies have done collectively to make sure this legislation works for them on the traceability issue. Many of them, many of these companies, have already set up good traceability provisions by themselves without government involvement. I think Kroger is especially to be commended for doing that. The best way to ensure the FDA can decisively respond to foodborne outbreaks is to authorize a comprehensive food tracing system, as I mentioned.

Earlier this year I introduced S. 425, the Food Safety and Tracing Improvement Act. It would improve the ability of Federal agencies to trace the origins of all contaminated food. I am very pleased that important components and goals of my legislation are included in the managers' amendment. With the addition of these stronger traceability provisions, the FDA will be tasked with establishing a tracing system for both unprocessed and processed food, such as peanut butter. The 2008–2009 peanut butter *Salmonella* outbreak which sickened more than 700 people and resulted in 9 deaths demonstrates exactly why the FDA needs expanded authority to trace foods.

One victim of the peanut butter *Salmonella* outbreak was Nellie Napier of Medina, OH. Ms. Napier was an 80-year-old mother of 6 children, 13 grandchildren, and 11 great-grandchildren. She got ill in January of 2009, almost 2 years ago, after eating a peanut butter product tainted with *Salmonella*. When she got sick, doctors told her family there was nothing they could do and she died shortly thereafter.

The FDA was able to identify the source of the outbreak in a short period of time, but it was incredibly difficult and time consuming for the FDA to determine where all the contaminated peanut butter ended up. The source company sold to 85 other companies. They sold to another 1,500 companies, and many of those companies sold to other companies. There were no trace-back provisions to be able to help and warn others of potential contamination.

Last year, the Inspector General released a report entitled "Traceability in the Food Supply Chain." This report identified significant and unacceptable difficulties in tracing food through the supply chain. The report attempted to trace 40 products through each stage of the food supply chain. They were able only to trace 5 of the 40. That is why we know how important this legislation is. We required the FDA to establish a product tracing system and de-

velop additional recordkeeping requirements for foods the FDA determines to be high risk. We require the Comptroller General to examine and provide recommendations regarding how to further improve the product tracing system. We don't know everything yet that we need to do. This gives the FDA and the Comptroller General guidance and leadership and the authority, in addition to what we have done, to do it in the right way.

I thank Senators HARKIN, ENZI, DURBIN, BURR, DODD, and GREGG for the work they have done, and Representative DIANA DEGETTE from Denver and Senators MERKLEY and FRANKEN, who have been particularly strong advocates working with me.

The goal is to make food safety a foregone conclusion. It is what Americans expect. It is what we have had through many years. We have moved away from that. This puts us right on course to do it right.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. I ask unanimous consent to speak as in morning business for 10 minutes.

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

THANKING SENATOR BURRIS

Mr. CARPER. Mr. President, first, let me say I have had the pleasure any number of times, as I think have most all of our colleagues, to be recognized by the Presiding Officer. Many times it is you. I know you will be leaving us soon—2 days—but it has been a real pleasure to serve with you. I appreciate not only having the opportunity to work in the Senate with you but on our committees and subcommittees. You have been a great colleague. We are going to miss you.

HEALTH CARE

Senator BARRASSO was speaking earlier, talking about the health care legislation. One of the means of paying for part of the health care reform—you may recall the Congressional Budget Office has said health care reform is expected to actually reduce the budget deficit by about \$100 billion over the next 10 years and by about another \$1 trillion in the 10 years following that. Part of our challenge is to make sure we do that, that potential for deficit reduction is realized.

One of the provisions in the health care bill calls for businesses, large and small, to submit form 1099s when they make a purchase of a service or a good from some other business. That can be an administrative burden for businesses.

The reason it was put in the bill was because it is a big cash economy and there is a huge tax gap of money that is owed to the Treasury. Last time the IRS estimated, they said it was about \$300 billion in moneys owed to the Treasury not being paid, in many cases by businesses—in a lot of cases where they work on a for-cash basis. The IRS

has asked us forever to do something about that problem. We tried to do it in the context of health care reform and use it for part of the way to pay for the health care costs.

We are going to come back and fix that issue—particularly the concerns raised by smaller businesses that this is an administrative burden—to see if there is a way to make it a lot less burdensome but at the same time to see if there is a way to close the tax gap.

The idea that those of us paying our fair share of taxes know a number of folks and businesses are not is enough to make our blood boil. We have to fix that and at the same time not create an unneeded burden for businesses in complying.

We just had a hearing in the Finance Committee this morning. The hearing was one sought by Republicans but also looked forward to by Democrats. Our speaker was Dr. Donald Berwick, whom you may know is the new administrator appointed by the President—a recess appointment because he expected that we would have a very difficult time getting him confirmed. We still have holes in the current administration where we cannot get people confirmed on the floor, whether it is for Assistant Secretary or Under Secretary—all kinds of provisions. I call it administration Swiss Cheese, and it is hard to try to govern. The administration realized that early on in a place like CMS, which stands for Centers for Medicare and Medicaid Services.

In that position, we needed someone—we needed someone like yesterday—and it looked as if we would have a tough and probably a long confirmation fight with Dr. Berwick. We just went ahead and made the recess appointment when we were in recess. So he is on the job now.

I did not know what to expect in the hearing. Would it be vitriolic? Dr. Berwick did not ask to be a recess appointee. He said the President asked him to serve and he said he would serve. I think he hit the deck running and is doing a very nice job. I think the hearing today was more positive, more focused on issues and results than I had expected it would be.

When we passed health care reform earlier this year, for me, having worked on it with my colleagues on the Finance Committee for about, gosh, over a year, my focus at the time was, How do we get better results for less money? And we have a lot of people, as we know, who do not have health care coverage at all. We need to extend coverage to them or as many of them as we can. But unless we also figure out how to get better health care outcomes for less money, we are not going to be able to sustain extending coverage to people who do not have it. So we have to do both. And a good deal of what Dr. Berwick testified to today was, How do we provide better results for less money?

One of the aspects of the legislation he spoke to which is about to be imple-

mented in less than 2 months focuses on Medicare and it focuses on our senior citizens.

As many of us know, since 2006 there has been a Medicare prescription drug program. We call it Part D. Medicare has Parts A and B, which is doctor care and hospital care, it has Part C, which is Medicare Advantage, and it has Part D, which is the prescription drug program. In Part D, when we actually adopted it, we said that the first roughly \$3,000 of name-brand drugs Medicare recipients take in a year—Medicare pays roughly 75 percent of the first \$3,000. The individual pays the rest. Everything over \$6,000 in name-brand drugs that a person takes in a year in this program—Medicare covers about 95 percent of everything over \$6,000. For most people, everything between \$3,000 and \$6,000 in a year, Medicare pays zero. That is called the doughnut hole.

Come January 1, the doughnut hole is going to be about half filled, and we will find that instead of Medicare paying zero for name-brand drugs bought by Medicare recipients purchasing between \$3,000 and \$6,000 per year, Medicare will pay 50 percent. Over the next 10 years, Medicare will pay more each year. When we get to 2020, Medicare will be covering 75 percent of the cost of those name-brand drugs. That will accomplish a couple of things. One, you and I know, Mr. President, that there are people in Illinois, Delaware, and other States who stop taking their medicines. They stop taking their medicines in the Medicare prescription drug program because they fall in the doughnut hole and Medicare, for them, is providing zero. That is going to change. And a lot of people who don't take their medicines, unfortunately, get sick, they end up in hospitals, and it becomes very expensive for us to take care of them, instead of taking maybe a relatively inexpensive medicine. We are going to begin to address that in a very substantial way on January 1.

Who pays that 50 percent? The pharmaceutical companies. Not the taxpayers, not the Treasury, the pharmaceutical companies. And as we march from 50 percent up to 75 percent in 2020, the pharmaceutical companies have agreed to meet those costs. We are happy about that, grateful for that. They deserve some credit for that.

Another benefit Dr. Berwick talked about is annual physicals. Right now a person reaches age 65, they are eligible for Medicare, and they get a one-time-only welcome-to-Medicare physical. They can live to be 105 and they will never get another one.

Under the law, beginning in January, 2 months from now, Medicare recipients will be eligible for an annual physical for the rest of their lives. If they live to be 105, if they start at 65, they will get 40 of them. The idea is—and they include cognitive screening as well, the physical by their own doctors and nurses—the idea there is to catch

problems when they are small and can be fixed and cared for rather than when people get really sick and end up in hospitals, which costs, as we know, a boatload of money.

The third thing he mentioned to all of us, in addition to the doughnut hole and the annual physicals, is copays. In Medicare, there is a copay for a lot of preventive screening—colonoscopies, mammographies, those kinds of things—and a lot of the time these Medicare recipients do not have the money. They do not have the money to pay for the copays, so they do not get the colonoscopies or they do not get the mammographies, they do not get the preventive screening, and then they get very sick, and the rest of us pay the tab. That is not smart.

Starting in January, the copays for those preventive screenings go away. We want the people to get the mammographies, we want them to get the colonoscopies when they are due to get them. In doing that, we are going to save money in the long haul.

The last thing I wish to mention is that there is a lot of fraud in Medicare. There is a lot of fraud in Medicaid. There are great provisions in the legislation that will enable us to go after fraud in Medicare, in Parts A and B, which is doctor care and hospital care; Part C, which is Medicare Advantage; and in Part D.

We have been given a little start to this in working on Medicare fraud cost recovery in about five States for the last couple of years. Last year, I think we recovered about \$1 billion in five States. Next year, we are going to start doing Medicare cost recovery in all 50 States. We hire private contractors. Out of every dollar they collect from fraud, 90 cents goes back into the Medicare trust fund and the private company keeps 10 cents. That is how they get paid. We are going to be able to extend the life of Medicare a whole lot because of this.

Not only are we going to be going after waste, fraud, and abuse in a very smart way, recovering money in a very smart way, we are also going to do it in Medicaid. We are also doing the same kind of thing in Medicaid. We have asked senior citizens from across the country to sign up and be part of a posse almost and to go out and help us identify the fraud. As we do that, we will be able to recover more money still.

So that is a little bit of what Dr. Berwick talked about today. I thought it was a very good exchange and a very encouraging exchange as we go forward in health care reform.

Again, I appreciate the opportunity to make these remarks. It is a very special privilege to do it with you sitting in that seat today.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 4 p.m. today.