

SAM said, "Just like slavery was the lead moral issue 150 years ago." SAM opposes *Roe v. Wade*, has a 100-percent pro-life voting record, and sponsored numerous bills in support of the unborn.

In 1995, SAM was diagnosed and treated for melanoma and it had a profound effect on his life. SAM said:

With the cancer, I did a lot of internal examination. My conclusion was that if this were to be terminal, at that point in time I would not be satisfied with how I had lived my life. I had tried to be a Christian, but I had failed. . . .

Surviving cancer, SAM found out just how precious life was, and with his new lease on life, SAM began to devote his life and work in the Senate to humanitarian causes around the world. SAM has actively fought to bring awareness to the genocide in Darfur. SAM supported the Sudan Peace Act of 2002 and the Darfur Peace and Accountability Act of 2002. In 2004, SAM visited Darfur to see violence and suffering firsthand, and that same year he supported the Congressional Declaration of Genocide.

In addition to his advocacy work on Sudan, SAM has worked on numerous other humanitarian challenges throughout the world, including Iran, Afghanistan, Uganda, the Congo, Pakistan, Ukraine, China, North Korea, and Vietnam. The Weekly Standard wrote:

Arguably no Senator has done more to press for human rights and democracy or to confront the spread of deadly disease, such as malaria, which kills 800,000 children in Africa every year.

In the Senate, SAM has crusaded for his humanitarian causes in a bipartisan fashion, including cosponsoring the Iran Democracy Act with Senator EVAN BAYH, cosponsoring the North Korea Human Rights Act with the late Senator Ted Kennedy, and what SAM calls his greatest achievement, cosponsoring the Trafficking in the Victims Protection Act with the late Senator Paul Wellstone.

Another one of SAM's passions was his role as chairman of the Senate Values Action Team. The group, consisting of outside organizations, met weekly to discuss matters of faith, family, and religious freedoms. Over the years, they worked together to strategize on efforts to protect the sanctity of life, school choice, and much more. SAM devoted countless hours to this organization and rarely missed a meeting.

In the Senate, I relied heavily on SAM's expertise and his leadership. He was always someone I looked toward, whether it was for guidance or perspective on many different issues. SAM served on numerous committees, including the Appropriations Committee, the Joint Economic Committee, the Senate Committee on Commerce, Science, and Transportation, and the Senate Special Committee on Aging, as well as the Senate Committee on Energy and Natural Resources.

In 2008, SAM announced he would honor his pledge to only serve two

terms in this Chamber. SAM will be missed, but his service to Kansas will continue. Last month, SAM was elected Governor of Kansas with 63 percent of the vote, winning 103 of the 105 counties. I wish to congratulate SAM on his impressive victory, and I cannot think of a better public servant or leader than SAM BROWNBACK for the people of Kansas.

On top of all of SAM's accomplishments, he is a loving husband to Mary. They met in law school and have been married for 27 years. Together, Mary and SAM have five children, including one adopted from Guatemala and one adopted from China. SAM said:

My family has been personally touched by adoption. My wife and I adopted our two youngest children, and I continue to experience joy from the relationships we have built through our adoption experience.

I think right there tells us all we need to know about the type of character and person SAM BROWNBACK is.

SAM, this Chamber honors you today for your service to this Nation, to the State of Kansas, and to the millions around the world who dream of a better life. Thank you from all of us, and good luck in the next chapter of your life.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### DEVELOPMENT, RELIEF, AND EDUCATION FOR ALIEN MINORS ACT OF 2010—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of the motion to proceed to S. 3992, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 663 (S. 3992) to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

Mr. LEVIN. Madam President, I ask unanimous consent that I be allowed to proceed as in morning business for 10 minutes.

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

#### DEFENSE AUTHORIZATION

Mr. LEVIN. Madam President, we have enacted the National Defense Authorization Act every year for the last 48 years. We need to do the same thing this year.

This year's bill would continue the increases in compensation and quality of life that our service men and women and their families deserve as they face the hardships imposed by continuing military operations around the world.

For example, the bill would extend over 30 types of bonuses and special pays aimed at encouraging enlistment, reenlistment, and continued service by active-duty and reserve military personnel.

The bill would authorize continued TRICARE coverage for eligible dependents of servicemembers up to the age of 26.

The bill will improve care for our wounded warriors by addressing inequities in rules for involuntary administrative separations based on medical conditions and requiring new education and training programs on the use of pharmaceuticals for patients in wounded warrior units, and it will authorize the service secretaries to waive maximum age limitations to enable certain highly qualified enlisted members who served in Operation Iraqi Freedom or Operation Enduring Freedom to enter the military service academies.

The bill would also include important funding and authorities needed to provide our troops the equipment and support that they will continue to need as long as they remain on the battlefield in Iraq and Afghanistan. For example, the bill would enhance the military's ability to rapidly acquire and field new capabilities in response to urgent needs on the battlefield by expanding DOD's authority to waive statutory requirements when urgently needed to save lives on the battlefield.

The bill will fully fund the President's request for \$11.6 billion to train and equip the Afghan National Army and Afghan police—growing the capabilities of these security forces to prepare them to take over increased responsibilities for Afghanistan's security by the July 2011 date established by the President for the beginning of reductions in U.S. forces at that time.

The bill will extend for one more year the authority for the Secretary of Defense to transfer equipment coming out of Iraq as our troops withdraw to the security forces of Iraq and Afghanistan, providing an important tool for our commanders looking to accelerate the growth and capability of these security forces.

The bill also includes important legislative provisions that would promote the Department of Defense cybersecurity and energy security efforts—two far-reaching initiatives that should help strengthen our national defense and our Nation.

If we fail to act on this bill, we will not be able to provide the Department of Defense with critical new authorities and extensions of existing authorities that it needs to safeguard our national security. For example, without this bill, the Department of Defense will either lose the authority it has requested to support counter-drug activities of foreign governments, use premium pay to encourage civilian employees to accept dangerous assignments in Iraq and Afghanistan, and

provide assistance to the Yemeni counterterrorism unit. A failure by the Senate to provide these important authorities could have serious consequences for the success or failure of ongoing military operations around the world.

I recognize this bill includes a handful of contentious provisions on which there is disagreement in the Senate. Some of those provisions I support and others I objected to and voted against in committee.

One of those provisions is the one that would repeal don't ask, don't tell 60 days after the President, the Secretary of Defense, and Chairman of the Joint Chiefs of Staff certify to Congress that implementation of repeal is consistent with the standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention in the Armed Forces.

The Armed Services Committee held two excellent hearings last week to consider the final report of the working group that reviewed the issues associated with the repeal of don't ask, don't tell.

The report concluded that allowing gay men and women to serve in the U.S. Armed Forces without being forced to conceal their sexual orientation would present a low risk to the military effectiveness, even during a time of war, and that 70 percent of surveyed servicemembers believe that the impact on their units would be positive, mixed, or of no consequence at all.

General Casey, Chief of Staff of the Army, testified that the presumption underpinning don't ask, don't tell is that "the presence of a gay or lesbian servicemember in a unit causes an unacceptable risk to good order and discipline." Then he said, "After reading this report, I don't believe that's true anymore, and I don't believe a substantial majority of our soldiers believe that's true."

After considering the report, Secretary of Defense Gates urged Congress to pass this legislation this year, so that the repeal of don't ask, don't tell could be implemented in a well-prepared and well-considered manner, rather than by abrupt judicial fiat, which he described as "by far the most disruptive and damaging scenario [he] can imagine."

To the extent that some of the service chiefs expressed concern about the repeal of don't ask, don't tell, their concerns focused on the timing of the repeal and adequacy of time to prepare for implementation, rather than on repeal itself. Secretary Gates testified that he "would not make his certification until [he] was satisfied, with the advice of the service chiefs, that we had in fact mitigated, if not eliminated to the extent possible, risks to combat readiness, to unit cohesion and effectiveness." All of the service chiefs testified that they were comfortable with the ability to provide military advice to Secretary Gates and have that advice heard.

The only method of repeal that places the timing of the repeal and the control of implementation in the hands of the military and the Department of Defense is the provision contained in this bill. By contrast, if don't ask, don't tell is repealed by a court decision, the service chiefs will have no influence over the timing of repeal or the implementation of the repeal.

Despite differing views over this and other provisions where there are differences of opinion, we should not deny the Senate the opportunity to take up this bill, which is so essential for the men and women in the military, because we disagree with some provisions of the bill. These are legitimate issues for debate, and I believe the Senate should debate this. But the only way we can debate and vote on these issues is if the Senate proceeds to the bill. The disputed provisions can be addressed through the amendment process.

Madam President, as you well know, this is a crucial matter for resolution. Our Presiding Officer has played an instrumental role in getting the don't ask, don't tell issue before this body and before the country. I commend her for that. We need to resolve it. The only way to resolve it is to get to the bill.

We currently have 50,000 U.S. soldiers, sailors, airmen, and marines on the ground in Iraq and roughly twice that many in Afghanistan. While there are some issues on which we may disagree, we all know that we must provide our troops with the support they need as long as they remain in harm's way. Senate action on the National Defense Authorization Act for fiscal year 2011 will improve the quality of life of our men and women in uniform. It will give them the tools they need to remain the most effective fighting force in the world. Most important of all, it will send an important message that we, as a nation, stand behind them and appreciate their service.

This bill runs some 850 pages. The House bill—the counterpart bill—runs more than a thousand pages. Even if we get 60 votes today to invoke cloture on the motion to proceed to this bill, and even if we are able to consider amendments and pass this bill in a few days, it will be possibly an insurmountable challenge to work out all of the differences with the House. Over the last 10 years, it has taken an average of 75 days to conference the Defense authorization bill with the House after we pass it. If we don't proceed on this bill this week, then invoking cloture sometime next week—even if we can do it—would be a symbolic victory. I don't believe there would be enough time to hammer out a final bill before the end of the session.

I don't believe in symbolic victories. This bill is a victory for the people in uniform. It is essential for the people in uniform. We should not act symbolically in their name and for their sake; we should act in reality. But the only

way this will be real, and that the repeal of don't ask, don't tell—assuming we continue to keep it in the bill—will be real is if we proceed to this bill this week. We cannot and should not delay this vote any longer.

I yield the floor and ask unanimous consent that the time on the quorum that I will call for be equally divided between both sides.

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

Mr. LEVIN. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SCHUMER. Madam President, I rise to speak on a bill that the Chair has spearheaded the charge for—and done it with such hard work and determination and commitment and vigor—and that is the bill to provide health care for our 9/11 heroes, those men and women who at a time of war rushed to danger to save lives and protect our freedom.

We have met with these brave men and women repeatedly. Some of them are suffering already with cancers they acquired for their acts of bravery. Others know it is an almost certainty that they will come down with similar diseases and illnesses that are extremely costly to fight.

Madam President, we have had a grand tradition in America: Those who risk their lives to protect us and volunteer to do it under no compunction, we remember them when they get hurt in that brave endeavors. We do it for our veterans and we should be doing it for our 9/11 heroes—the first responders, the police, the firefighters, the EMT workers, the construction workers, and the ordinary citizens who rushed into danger at a time when no one knew how many people might be living and entrapped in those collapsed towers.

I plead with my colleagues on the other side of the aisle, this should not be a moment of politics. One can come up with reason after reason why not to vote for this bill, and we have heard many and the reasons keep changing. But one fact doesn't change: There are those who need help and who deserve our help—from New York, New Jersey, Connecticut, and from every other State of the Union. To them, a parliamentary decision that we can't vote on this because there is another bill we want to vote on first, because we would change this or that, is going to ring very hollow.

This should not be a partisan issue. This should be an issue where America unites. When it comes to helping our veterans, we are united. That is not a Democratic or Republican issue. That

is not a northeast or southwest issue. It is an issue of being an American. This vote is about being an American because from the days at Bunker Hill, when the patriots put down their plows and took up muskets to defend and create our freedom, we have always tried to take care of them, and we have done it better and better for our veterans. The heroes of 9/11 are no different.

So I beg, I plead, I implore two brave colleagues from the other side to join us. Put aside the political considerations. Remember what these people did for us. You have seen them when they have visited your offices, the suffering, all for an act of voluntary heroism. They are not asking for welfare. They are not asking for a huge hand-out. They are simply asking that they be able to meet the high health care costs that occur when you develop cancers and other illnesses because particles of glass and cement and other materials get lodged in your lungs or your gastrointestinal tract.

So this is our last call. It is a plea. We will keep at this, but today is the day to step to the plate. I urge my colleagues to please support those brave men and women who were there for us—for America. Do not come up with an excuse as to why you cannot do it. We have marched and marched and marched, and this is the finish line. Help us get over it, please.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I rise to speak on the two pending votes before the Senate. First, I wish to follow my distinguished colleague from New York, whose comments I want to echo regarding the Presiding Officer, who has made this one of her passions. She picked it up when I first introduced the James Zadroga Act and then took it up when she came to the Senate and has done a magnificent job and brought us to this moment.

Jim Zadroga was a New Jerseyan who spent 450 hours at the World Trade Center site—a New York City police officer who simply had a paper mask on as his only protection. He and so many others who answered on that fateful day did not question their personal security, did not give it a second thought. They did not think about their health, did not think about the potential consequences that would flow from the exposure to which they were subjecting themselves. They thought only about responding, saving lives, and meeting the Nation's need—the Nation's need, not New York's need. For Jim Zadroga and so many others, the consequence of that selflessness has been enormous. In many cases, they have died. In other cases, they have serious life-threatening illnesses. In other cases, they have real disabilities as a result of those illnesses.

I remember on that day, after the attacks on September 11, how we came together on the Capitol steps and we declared our commitment of love of

country and a commitment to those who died on that fateful day, to their families, and to those who responded. I remember the incredible words—glowing, soaring—that were spoken about the bravery of those men and women who responded from all over the country.

Those who are the victims of the exposure they received on the ground on September 11 come from every State in the Union. This is not simply a New York issue or a New Jersey issue, where so many of our first responders came from. These are individuals who came from across the country, who came together as Americans to respond on that fateful day. This requires each and every one of us in the Senate to respond to all of those Americans from every State who ultimately find themselves, through their selflessness, exposed to life-threatening illnesses. A grateful nation not only joins together in commemoration on September 11 of each year but a grateful nation shows its gratitude to those who answered the call without concern for their well-being by how we take care of their health care, how we take care of their disabilities, and how we take care of the families of those who ultimately lost their lives in service to the country.

This is no different than the men and women who wear the uniform of the United States and go abroad to defend the Nation. These men and women wore uniforms too. Some of them wore the uniform of a police officer, some of them wore the uniform of a firefighter, some wore the uniform of emergency management personnel. Some of them, ultimately, were first-aid squads. But all of them on those fateful days wore a uniform that served the Nation. How can the Nation forget them now? That is what this vote is all about.

I cannot accept as a moral equivalent that some oath not to vote on those who serve the country, risk their lives, cannot take place because of some vote on some tax issue. No one in the Nation would believe that it is OK to say: I will not vote to give relief to the health of those individuals who sacrificed their health on September 11 and the days after because I have to wait for some pending tax vote.

Go back to the men and women who serve this country and look at them in their eyes and tell them it is some vote that we are waiting for on taxes that determines whether their health needs will be responded to. Shameless. I can't wait to see, when one of us stands for one of those pictures on the commemoration of September 11, the comments about how heroic those individuals were but cannot cast a simple vote.

#### THE DREAM ACT

Finally, I want to move to the question of the DREAM Act. On the DREAM Act, the House of Representatives took a critical step yesterday in making a reality of the dreams and hopes and aspirations of young people who know nothing but this country as

their country. They made no choices in their lives to come to the United States. Those choices were made by their parents. All they know is that they stand every day as young students and pledge allegiance to the flag of the United States of America. All they know is the national anthem of the United States. All they know is they worked hard and became salutatorians, valedictorians, and done everything we expect of any one of us, particularly of our children, to try to excel and exceed. Overwhelmingly, they have excelled and exceeded. Yet their dream of being able to continue to exceed and excel on behalf of the Nation is blunted by the fact that they have an undocumented status in this country through no fault of their own.

The DREAM Act says if you are willing to wear the uniform and serve in the Armed Forces of the United States, and you serve honorably for 2 years, we will give you a pathway toward permanent residency. If you go to college—assuming that you ultimately qualify, that you are accepted, and that you do well—we will give you a pathway to permanent residency. We will adjust your status and permit that dream to take place.

This is not amnesty. Amnesty—which I have heard some of my colleagues use, and they will use it on anything that is immigration related. Right away they roll out the word “amnesty.” Amnesty is when you get something for nothing; when you did something wrong and you have to pay no consequence. In this case I believe wearing the uniform of the U.S. Armed Forces, risking your life for your country, maybe losing that life before you achieve your goal and your dream, is not amnesty. I believe working hard and being educated so you can help fuel the Nation's prosperity and meet its economic challenge, that is not amnesty. That is paying your dues on behalf of the country. For if you do all of that, you still have to wait a decade before your status can be adjusted to permanent residency. So you have to be an exemplary citizen, you have to do everything that is right, everything we cherish in America. That is what the DREAM Act is all about and that is why the Secretary of Defense has come out in strong support of the DREAM Act. That is why Colin Powell came out in support of the DREAM Act. That is why the Under Secretary, Personnel and Readiness at the Department of Defense during the Bush administration, David Chu, came out and said this is, in essence, the very effort we would like to see.

[For] many of these young people . . . the DREAM Act would provide the opportunity of serving the United States in uniform.

Moreover, university presidents, respected education associations, leading Fortune 500 businesses, such as Microsoft, also support this legislation. Mike Huckabee explained the economic sense of allowing undocumented children to earn their way.

Let's not stop young men and women who know only this country as their country, who made no choices on their own. Let's be family-friendly. Let's observe the values. Let's pass the DREAM Act today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Madam President, I ask to be notified after 4 minutes.

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

Mr. SESSIONS. Madam President, the military has a very fine program now that allows people legally and illegally in the United States to join the military and put themselves on a pathway to citizenship. The fact is, in this bill, as it is going to work out in reality, 95 percent, probably 98 percent of the people who take advantage of this amnesty that puts them on a guaranteed path to citizenship will do so by claiming they have a high school degree. They can be up to 30 years of age. They claim they have a high school degree and then do 2 years of community college or even correspondence college work. That is where this huge loophole is and that is why we will have 1 to 2 million people who are going to seek protection under this act.

What is this about? The American people understand it. They have tried to tell this Congress, but the Congress and the political leadership refuse to listen. What they are saying is do not continue to reward illegality. Do not continue to provide benefits for people who violated our law, please. The first thing you do is don't reward it. The second thing you want to do is to end the mass illegality that is occurring in our country—600,000 people were arrested last year trying to enter our country illegally at the border—600,000. This is a huge problem.

This administration sued Arizona when it tried to do something about it. They have ended workplace raids that would have identified people who were working illegally and provide Americans an opportunity to have a job. This bill will cost \$5 billion according to the CBO. It is not going to pay for itself, and it allows people with two misdemeanors—if you only have two misdemeanors you can apply. Many people, if you know much about the law enforcement system in the country, plead to lesser offenses when they really are guilty of more serious offenses. A lot of these misdemeanors are very serious offenses themselves. They will be given the advantage of this act.

It is not set up for military, it is not set up for valedictorians and salutatorians, it is not set up for people going to Harvard. It is set up for people who have come into the country, can be brought in illegally as a teenager, they go to high school—they have to be accepted. They get a GED or get a high school degree, and they apply and have a safe harbor in our country indefinitely.

I introduced yesterday a chart showing a Google page with a whole long list of places you can order false high school diplomas, false transcripts, false GED certificates. There are no people funded to investigate any of this. People are going to walk in and say: I am 30 years old and I came at age 16. I'm in.

Who is going to go out and investigate that? Nobody is. There is no funding to do it, and there is no plan to do it. It is a major loophole.

But, fundamentally, I would say this Nation will be prepared, as a nation, to wrestle with and try to do the right thing about people who have been here a long time and who came here as a young person. But let me tell you, not until this country brings the lawlessness to an end, that is what the American people have told us unequivocally. They shut down our switchboards with so many phone calls not too long ago when we tried to pass amnesty here. We do not need to do this. Why don't we do the responsible thing?

Finally, let me say this illegality can be ended. It is within our grasp if we have leadership from the top and leadership in the Congress and leadership from the President.

The ACTING PRESIDENT pro tempore. The Senator has consumed his 4 minutes.

Mr. SESSIONS. I thank the Chair. I say we have not had that leadership. What happens 3 years from now when we have another group that has come illegally at age 15 or 16 because they have seen what happens to the ones who came before? Are we then going to say they don't get amnesty? No. We will have lost the moral high ground, the right, responsible effort to have a lawful system in America. We are surrendering to it if we vote for this bill.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. BARRASSO. I ask unanimous consent to be allowed to engage in a colloquy with my colleagues.

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

Mr. BARRASSO. As Members of this body know, for the past 9 months I have come to the floor every week to offer a doctor's second opinion on the new health care law. I do this as someone who has practiced medicine, taken care of families around the State of Wyoming for a quarter of a century.

Each week I repeatedly criticize another one of the unintended consequences of this health care law, a law that I think is bad for patients, bad for providers—the nurses and the doctors who take care of those patients—and bad for the taxpayers.

Americans heard how this law breaks most of the President's promises about health care reform. That is why, on election day, Americans across our country spoke out. They called on Washington to work to repeal and replace this law. The Republicans have

answered. We realize we cannot just object to the law, we must do our best to repeal and replace it. That is why I am delighted this morning to be joined on the floor by Senator WICKER from Mississippi. He is joining me to talk about his new bill that he is introducing today that will allow State officials to challenge Federal regulations before these regulations actually go into effect. This will allow States to fight back against outrageous health care regulations that continue to be written.

With that, I would like to ask my colleague if he would please share with the body and with the country the remarkable bill that he is introducing today.

Mr. WICKER. I thank my colleague from Wyoming, Senator BARRASSO, a practicing physician in his own right. I thank my friend for repeatedly coming to the floor and simply bringing the facts to the attention of our membership and to the American people.

This was an unpopular piece of legislation when we were considering it. We wasted most of a year when we should have been talking about job creation and the economy, talking about the overhaul of our entire health care system with the ObamaCare proposal. It was unpopular when it was enacted. It was unpopular when it was signed into law. We saw that in election after election, the two elections in New Jersey and Virginia. We saw it in spades in the Massachusetts election where it was the central issue. But this Congress persisted against the will of the American people.

Because of the facts as presented by Dr. BARRASSO and also the facts that are coming to light as the people are finding out in their own lives with their own insurance policies, this law is even more unpopular and more unsatisfactory than it was at the very beginning, and it should be repealed lock, stock, and barrel. It should be defunded and it should be replaced by something market driven and something workable.

In an additional attempt to address this very wrongheaded piece of legislation, a few moments ago I introduced the Tenth Amendment Regulatory Reform Act. To remind my colleagues, the tenth amendment to the Constitution explicitly states:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

This amendment, this part of the Bill of Rights, expressly limits the powers of the Federal Government for important reasons.

When we look back to the early days of the United States, it is clear that the Founding Fathers believed in a limited Federal Government, having just defeated a monarchy with near absolute power. Our Founders sought a different way of governing, one based on controlled size and scope.

Our Founding Fathers repeatedly stated their opposition to a Federal

Government with expansive powers. In *Federalist* No. 45, James Madison wrote:

The powers delegated by the proposed Constitution to the Federal Government are few and defined.

When have we heard that last?

He goes on to say:

Those which are to remain in State government are numerous and indefinite.

This may come as a surprise to people who have viewed the Congress of the United States in the past few years. Madison wrote, “few and defined.” Dispute this fact, congressional limits on the Federal Government are rarely enforced today. I hope to change this through my legislation.

Federal agencies routinely usurp the rights of States by promulgating regulations that are contrary to the spirit and the letter of the 10th amendment to the Constitution. The Code of Federal Regulations now totals an expansive 163,333 pages. While some of the rules contained in it are necessary, many of them simply are not—adding burdens, headaches, and costs for millions of Americans and forcing unnecessary Federal spending at a time when the United States borrows 40 cents for each dollar we spend. These rules and regulations also take power from States and they take power from individual Americans. This bill would allow States to challenge unconstitutional mandates before these mandates take effect.

Much of the new health care law gives unelected bureaucrats the power to write rules and regulations required to implement ObamaCare. Overall, the new health care law creates 159 bureaucracies, according to a study by the Joint Economic Council. Countless Federal regulations will have to be written to implement the law.

A requirement for Americans to purchase government-approved health insurance—a central piece of ObamaCare—explicitly oversteps the 10th amendment. Under no other circumstances do we force individuals to pay for something they may not want or cannot afford, simply because they are Americans, which is what this law attempts to do.

Many rules and regulations will be required to implement this provision. According to one analysis, the Internal Revenue Service will need to hire 16,000 new IRS employees to enforce this individual mandate. Each of those bureaucrats will be governed by agency rules created in the coming months and years, and we read in the paper today that it may even be decades before all of these rules will be created.

Once these regulations are written, it will again require costly and time-consuming court proceedings to overturn them. Instead of forcing the American people to wait for a remedy, we should have agencies address these problems at the outset. This bill would go a long way toward doing that. It would provide special standing for designated State government officials to dispute

regulations issued by administration agencies attempting to implement new Federal laws or Presidential Executive orders. Under the legislation, any rule proposed by a Federal agency would be subject to constitutional challenges if certain State officials determine the rule infringes on powers reserved to the States under the 10th amendment.

States are already challenging the massive Federal takeover in court because of the mandates on both States and individuals. I am proud to say that 43 of the 50 States have either joined lawsuits or taken other official action to stop its unconstitutional provisions. This bill would give State officials another tool at their disposal to challenge the unconstitutional overreach of the Federal Government.

I urge my colleagues to join me in this legislation. It is late in this Congress, but there is another one looming with reinforcements coming from the people.

I appreciate my colleague allowing me to join him today in this discussion of a doctor's second opinion.

Mr. BARRASSO. Well, I am very impressed by what the Senator have come up with. This leadership position takes that next step forward to protect our rights that he and I believe are in the Constitution and apply to the people of our States and apply to the people of this country.

One would hope everyone would join in, and I ask unanimous consent to be added as an original cosponsor of this legislation.

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

Mr. BARRASSO. The Senator mentioned the unelected bureaucrats in our comments. There was a story today in the *New York Times*. I would like to ask a couple of questions of the Senator from that story because I think it gets to the point he is making. This was by Eric Lichtblau and Robert Pear.

Madam President, I ask unanimous consent to have printed in the *RECORD* this story from today's *New York Times*.

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

[From the *New York Times*, Dec. 8, 2010]

WASHINGTON RULE MAKERS OUT OF THE SHADOWS

(By Eric Lichtblau and Robert Pear)

WASHINGTON.—Federal rule makers, long the neglected stepchildren of Washington bureaucrats, suddenly find themselves at the center of power as they scramble to work out details of hundreds of sweeping financial and health care regulations that will ultimately affect most Americans.

In Bethesda, Md., more than 200 health regulators working on complicated insurance rules have taken over three floors of a suburban office building, paying almost double the market rate for the space in their rush to get started.

Executives from the U.S. Chamber of Commerce have been meeting almost daily with financial rule makers to air concerns about regulations they say threaten to curtail commerce.

And at the White House, senior officials receive several status reports a week on a process that all sides agree has vast implications for the country as a whole and for the Obama administration's political fortunes.

The boom in rule-making—the bureaucratic term for the nitty-gritty of drafting regulations—is a result of the mega-bills approved by Congress this year at the urging of President Obama: the health care bill signed into law in March, and the financial overhaul law signed in July.

“There has never been a period like what we are going through now, in terms of the sheer volume and complexity of rule-making,” said Paul Dennett, senior vice president of the American Benefits Council, a trade group for large employers.

And what was already shaping up as a raucous lobbying battle over the rules is likely to become more contentious when Republicans take control of the House, having been swept to power on a pledge to influence health care and financial regulation.

At the very least, Republicans will be able to hold public hearings to spotlight financial regulations they see as too restrictive and health care rules they see as too disruptive, and they could pressure regulators to soften them.

The debate over federal spending has already slowed the development of financial rules, as hundreds of new rule-making positions have gone unfilled because of a lack of new financing.

Congress provided a road map for measures aimed broadly at getting more Americans covered by health insurance and providing more federal safeguards against risky financial practices. But the laws were so broad and complex that executive-branch regulators have wide leeway in determining what the rules should say and how they should be carried out.

In all, the bills call for drafting more than 300 separate rules on a rolling schedule by about 2014, plus dozens of other studies and periodic reports. That may be only the beginning. A recent report from the Congressional Research Service said the publication of rules under the health care law could stretch out for decades to come.

Regulators at various agencies are trying to answer questions like these:

How much should a credit-card company be able to charge a shopkeeper for administrative fees when you swipe your card for a purchase?

Which types of financial companies are so “systemically important” to the overall economy that they should be subject to greater federal oversight?

What services must be covered by all insurers as part of the “essential health benefits” package? And at what point would an increase in an insurer's premiums be considered so “unreasonable” that state and federal regulators could step in?

These and many other questions are now in the hands of government lawyers, doctors, bankers, accountants, actuaries and other regulatory specialists. With the rules spread across agencies, no one is certain how many employees are working on them, but the number is certainly in the hundreds or higher.

At the Federal Reserve, for instance, most of more than 50 lawyers in the legal division are now spending significant parts of their days on rule-making issues, like the question of how to carry out and enforce the so-called Volcker Rule, named for Paul A. Volcker, the former Fed chairman, restricting banks from making certain types of speculative investments.

No longer are these considered arcane questions that draw scrutiny only from the few Washingtonians who read the “notices of

proposed rule-making" in the Federal Register.

These days, the rule makers are attracting attention from Congressional officials, industry advocates and lobbyists, with dozens of executives from firms like Goldman Sachs, Mastercard, JPMorgan Chase and Credit Suisse meeting with federal regulators recently to give input on specific rules and try to influence the outcome, according to public online postings by federal regulators on many of the meetings.

"I wake up in the morning thinking about this stuff, and I go to sleep at night thinking about it," said Tom Quaadman, a senior Chamber of Commerce executive who is leading a group of 10 staff members seeking to shape the financial rules.

The discussions are in the early stages.

But though all sides talk of finding consensus, conflicts have emerged.

The Chamber of Commerce and the Business Roundtable, made up of leading chief executives, are suing the Securities and Exchange Commission, arguing that a rule giving proxy access on corporate boards to small shareholders did not get a proper review and would undermine companies.

When these issues still rested with Congress this year, the chamber spent millions on glitzy advertisements opposing the health care and financial regulation. The chamber does not plan anything so showy as the debate shifts to the regulatory agencies, but is bracing for a long fight filled with low-key meetings and court filings.

"It's a substantial amount of resources we've brought to bear on this," Mr. Quaadman said. "We've always seen this as being a marathon. This is a process that's going to take years, and this is the start of the race."

The Consumer Financial Protection Bureau, created by Congress as part of the financial overhaul, has been the target of particularly intense lobbying, with industry representatives and consumer advocates trying to shape the agency's structure and mission.

Questions about the agency's allegiances have already arisen, however, after it was disclosed that Elizabeth Warren, the White House aide chosen to start up the agency, had worked as a consultant on a lawsuit involving major banks and credit-card companies and that one of her senior aides had worked previously at a mortgage company with a spotty record.

So far, health care regulators have a head start on their financial counterparts. They not only started the process four months earlier when the health care bill passed Congress, but they also have the advantage of already securing start-up funds for rule-making personnel and office space.

In Bethesda, health care officials are leasing more than 70,000 square feet of space on three floors of an office building for about 230 employees to work on rule-making and other duties. The government agreed to pay \$51.41 per usable square foot of space, compared with an average of \$27 in Bethesda, because it wanted to get the operation running in July, officials said.

In contrast, financial regulators have been unable to get new financing for hundreds of additional rule makers because Congress has not yet passed a budget, and they are largely making do by reassigning existing staff members. Officials at agencies like the Commodity Futures Trading Commission, which is responsible for drafting more than 60 rules, are warning that there is an urgent need for the money.

Annette L. Nazareth, a former S.E.C. official who now represents financial clients before rule makers as a lawyer for the firm of Davis Polk, said short staffing and "wildly

unrealistic" deadlines set by Congress threatened the entire process.

"These regulators are overwhelmed, and this stuff is being churned out on issues that are enormously complex," Ms. Nazareth said. "It's very bad for the markets to do it this way, and it's bound to have an impact on how things come out."

Mr. BARRASSO. It talks about Federal rulemakers. That is whom I believe we are talking about, these unelected bureaucrats.

Federal rule makers, long the neglected stepchildren of Washington bureaucrats, suddenly find themselves at the center of power—

The bureaucrats—

as they scramble to work out details of hundreds of sweeping financial and health care regulations that will ultimately affect most Americans.

We are talking about not just the health care law but also the financial regulations.

The one part I want to ask the Senator about says:

But the laws were so broad and complex that executive-branch regulators will have wide leeway in determining what the rules should say and how they should be carried out.

Well, isn't that why we need this piece of legislation—to let the States get in there before some of these rules and regulations are put onto the people of Mississippi, the people of Wyoming, the people all across the country?

Mr. WICKER. Well, the Senator is absolutely correct. And this coming from the New York Times in particular, this article is an astounding bit of information for the American people, and they need to know about it. I think the American people have the quaint idea that their elected officials, both in the executive branch and in the legislative branch, should be the center of power. I did not come to Washington to be powerful. But at least I have to stand before my constituents every so often and get their approval. What this article says is that the bureaucrats are now at the center of power because of this ObamaCare legislation and the financial services legislation.

We have enacted, over my vote and over the vote of the Senator from Wyoming, a 2,700-page health care overhaul. Yet we are told the main thing it does is empower bureaucrats and make them the decisionmakers. Certainly, if this is the result of this unfortunate piece of legislation, a Governor or a speaker of the house of representatives at the State level ought to be able to quickly and expeditiously go to Federal court and say: Wait a minute, this violates the 10th amendment. All we are saying is that they need a path to go quickly to the Federal courts and challenge this.

I am sure the Senator noticed this—this is just one example. In neighboring Bethesda, MD, this new ObamaCare law has resulted in 200 health regulators rushing to a new facility there and paying twice the fair market value. This is Uncle Sugar coming in. They can pay as much money as they want.

So they pay twice the fair market value in rent, and they have taken over three floors of a suburban office building to begin getting started on actually writing the rules that will apply this Federal mandate to the people. It is amazing.

You know, actually, I will say this to my friend: When we talk about defunding the Federal Government, I would like for our Appropriations Committees, our investigative committees, both House and Senate, to look at how they got the right to pay twice the fair market value.

Mr. BARRASSO. Well, it is astonishing. I know the people of Wyoming as well as the people of Mississippi always oppose Washington's wasteful spending, but when I read that the health care officials are leasing more than 70,000 square feet of space on three floors of this office building in Bethesda for 230 employees, rushing to rulemaking, and see that the government—Washington—agreed to pay over \$51 per usable square foot, compared with the average of less than \$30 a square foot in Bethesda—why? Because it wanted to get the operation running in July. They were rushing to get to this.

But it says that this may only be the beginning. This may only be the beginning. A recent report—not by my colleague from Mississippi and not by me but by the Congressional Research Service—says that the publication of rules under the health care law could stretch out for decades to come.

That is why I am going to cosponsor this legislation. I have great concern about States rights and individual rights being trampled on by a Washington government that is out of control in terms of spending, and it is doing it in spite of the cries of the American people.

So I congratulate and compliment my colleague from Mississippi for bringing this piece of legislation to the Senate today and thank him for joining me on the floor as part of a doctor's second opinion because you don't have to be a doctor to know that this health care law is not good for patients, it is not good for providers, it is not good for taxpayers. As more and more people see the rules and the regulations come, they will once again see the broken promises by this President, who said: If you like your health care program, you get to keep it, and then they turn 2 pages in the rules and regulations into 121 pages which said, for many people in this country, they are not going to be able to keep what they have, they are not going to be able to keep what has been promised them, and it is because the rules and the regulations are so complicated. And the rulemaking continues.

Mr. WICKER. If I might add, this is really a new chapter in the history of the American Federal Government. According to the senior vice president of the American Benefits Council:



There has never been a period like what we are going through now, in terms of the sheer volume and complexity of rule-making.

My friend, this is unprecedented in American history. The scope, the cost, the magnitude of this legislation is unprecedented, according to the American Benefits Council. And the point of my bill is that that does violence to the Bill of Rights, it does violence to the intent of the Founding Fathers that the Federal Government be limited in its power and scope and that we leave most of the rights we are endowed with by our creators to the people and to the States themselves. So it is a great privilege to join my colleague today in making this point.

Mr. BARRASSO. With that, I thank and congratulate my colleague for his vision and his foresight and his leadership because this is, I believe, how the Founding Fathers would have seen it. I believe those who wrote the Constitution would be on board with this piece of legislation to say, as the 10th amendment does say, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BINGAMAN.) The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VITTER. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. VITTER. Mr. President, I ask unanimous consent to speak for up to 3 minutes.

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

Mr. VITTER. Mr. President, I come to the floor to strongly urge my colleagues, Democrats and Republicans, to oppose cloture on the so-called DREAM Act. That will be one of our votes in a few minutes. All these votes are important. That is the most important.

The reasons we should oppose cloture are simple and basic. They all go to this past election. They all ask the question: Have we been listening at all to the American people? The American people have been speaking loudly and clearly on issues that pertain to the DREAM Act. I point to three in particular.

No. 1, the DREAM Act is a major amnesty provision. There are no two ways about it. It grants at least 2.1 million illegals amnesty. It puts them on a path toward citizenship, which will also allow them to have their family members put in legal status. That means when we count all those people, there are probably two to three times that initial 2.1 million people who will be granted some form of amnesty. When we are not securing our borders adequately, when we are not putting a system in place to enforce workplace security, that is absolutely wrong.

No. 2, we are in the middle of a serious recession. The American people are

hurting. Things such as slots at public colleges and universities, things such as financial aid for those positions are very scarce and very sought after, more than ever before, because of the horrible state of the economy. These young illegals who would be granted amnesty would be put in direct competition with American citizens for those scarce resources. Are we listening to the American people about the struggles they are going through right now in this desperate economy? If we do that, the answer would clearly be no.

Third, what about spending and debt? The American people have been speaking to us loudly and clearly about that. Yet the DREAM Act would increase spending and deficit and debt. Would we be listening to the American people about that, were we to pass the DREAM Act? Absolutely not. The DREAM Act has at least \$5 billion of unpaid-for spending in it, by all reasonable estimates. If we grant amnesty to 2.1 million people and then down the road we double or triple that when counting family members, of course, there is cost to that in terms of Federal Government benefits and programs and spending. Reasonable estimates say that is at least \$5 billion of cost, unpaid for, increasing spending, increasing deficit, increasing debt. If we did that by passing the DREAM Act, would we be listening to the American people? Absolutely not.

Let's come to the Senate Chamber and perform our first and most solemn duty, which is to listen to the American people, listen to the citizens of the States, and truly represent them in this important body. Let's listen to them when they say no amnesty. Let's listen to them when they say how difficult their lives are in this horrible economy. Let's listen to them when they say control spending and deficit and debt. Don't increase it yet again.

I propose we listen to them. I will listen to them and vote no on cloture on the DREAM Act.

I yield the floor and 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, as I said this morning when the Senate came into session, the House passed, late last night, the DREAM Act. I have asked consent from my colleagues on the other side of the aisle to vitiate the cloture vote, and that was not granted this morning, which I think is unfortunate because it is a waste of the Senate's time because we need to act on a piece of legislation that is already passed, so that when we pass it, it would go directly to the President.

We have been told by my Republican colleagues that they are not willing to do any legislative business, which I

think is untoward and unnecessary and unfair. But that is where they are. So that being the case, Mr. President, I would again renew my request that we vitiate the vote on cloture that is pending before the Senate at this stage.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. I object.

The PRESIDING OFFICER. Objection has been heard.

Mr. REID. Mr. President, hearing the objection, I move to table the motion to proceed to S. 3992, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. BROWNBACK).

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

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 268 Leg.]

#### YEAS—59

Akaka	Franken	Nelson (NE)
Baucus	Gillibrand	Nelson (FL)
Bayh	Hagan	Reed
Begich	Harkin	Reid
Bennet	Inouye	Risch
Bingaman	Johnson	Rockefeller
Boxer	Kerry	Sanders
Brown (OH)	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Conrad	Levin	Udall (CO)
Coons	Lieberman	Udall (NM)
Corker	Lincoln	Vitter
Crapo	Manchin	Warner
Dodd	McCaskill	Webb
Dorgan	Mikulski	Whitehouse
Durbin	Murkowski	Wyden
Feinstein	Murray	

#### NAYS—40

Alexander	Enzi	McCain
Barrasso	Feingold	McConnell
Bennett	Graham	Menendez
Bond	Grassley	Merkley
Brown (MA)	Gregg	Pryor
Bunning	Hatch	Roberts
Burr	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Kirk	Voinovich
Cornyn	Kyl	Wicker
DeMint	LeMieux	
Ensign	Lugar	

#### NOT VOTING—1

Brownback

The motion was agreed to.

The PRESIDING OFFICER. The motion to proceed having been tabled, the cloture motion is vitiated.

#### JAMES ZADROGA 9/11 HEALTH AND COMPENSATION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Pursuant to the provisions of Rule XXII, the