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MARKUP OF COMMITTEE PRINTS: PROPOSED MATTERS FOR INCLUSION

IN RECONCILIATION RECOMMENDATIONS;

H.R. 4471, THE GASOLINE REGULATIONS ACT OF 2012; AND

H.R. 4480, THE STRATEGIC ENERGY PRODUCTION ACT OF 2012

TUESDAY, APRIL 24, 2012

House of Representatives,

Committee on Energy and Commerce,

Washington, D.C.

The committee met, pursuant to call, at 4:08 p.m., in Room 2322, Rayburn House Office Building, Hon. Fred Upton [chairman of the committee] presiding.

Present: Representatives Upton, Stearns, Whitfield, Shimkus, Pitts, Blackburn, Gingrey, Scalise, Latta, Harper, Guthrie, Kinzinger, Waxman, Dingell, Pallone, Green, Capps, Schakowsky, Barrow, and Christensen.

Staff Present: Gary Andres, Staff Director; Charlotte Baker,

Press Secretary; Mike Bloomquist, General Counsel; Sean Bonyun, Deputy Communications Director; Anita Bradley, Senior Policy Advisor to Chairman Emeritus; Maryam Brown, Chief Counsel, Energy and Power; Howard Cohen, Chief Health Counsel; Andy Duberstein, Deputy Press Secretary; Nancy Dunlap, Health Fellow; Paul Edattel, Professional Staff Member, Health; Neil Fried, Chief Counsel, C&T; Garrett Golding, Legislative Analyst, Energy; Julie Goon, Health Policy Advisor; Cory Hicks, Policy Coordinator, Energy & Power; Peter Kielty, Associate Counsel; Heidi King, Chief Economist; Ben Lieberman, Counsel, Energy & Power; Ryan Long, Chief Counsel, Health; Carly McWilliams, Legislative Clerk; Mary Neumayr, Senior Energy Counsel; Katie Novaria, Legislative Clerk; Monica Popp, Professional Staff Member, Health; Charlotte Savercool, Executive Assistant; Heidi Stirrup, Health Policy Coordinator; Lyn Walker, Coordinator, Admin/Human Resources; Phil Barnett, Minority Staff Director; Jen Berenholtz, Minority Chief Clerk; Stacia Cardille, Minority Deputy Chief Counsel; Greg Dotson, Minority Energy and Environment Staff Director; Purvee Kempf, Minority Senior Counsel; Elizabeth Letter, Minority Assistant Press Secretary; Karen Nelson, Minority Deputy Committee Staff Director for Health; Stephen Salsbury, Minority Staff Assistant; and Rachel Sher, Minority Senior Counsel.

The Chairman. The committee will come to order. Good afternoon, welcome. Chair will recognize himself for 5 minutes. This week we are going to consider three committee prints as part of the House's efforts to do something that we all know needs to be done, fulfill our commitment to cut spending and move the Federal Government's budget in a more responsible direction.

Budget resolution adopted by the House last month instructed six committees to propose changes to law to generate mandatory savings under a process known as reconciliation. This committee was given the largest task of finding \$96.8 billion over 10 years. This reconciliation effort is designed to replace the blunt instrument known as the sequester, which was included in the Budget Control Act. Unless we propose more thoughtful savings this sequester will cut discretionary spending indiscriminately while shielding the lion's share of the government's budget mandatory spending from such reductions.

Members from across the political spectrum should be deeply concerned if the sequester is triggered. Critical priorities that we all share, such as research at the NIH and FDA review and inspection budgets, are on the chopping block while entitlement reforms that threaten to derail the long-term solvency of the U.S. are largely left untouched.

Sequester also threatens the men and women of the U.S. armed services. It disproportionately cuts our military and threatens our long-term defense posture. The Chairman of the Joint Chiefs of Staff

stated that sequestration will lead to a hollow force. Chief of Staff to the U.S. Army Ray ODierno declared that cuts of this magnitude would be catastrophic to the military, and the Nation would incur an unacceptable level of strategic and operational risk.

The committee prints before us will help avoid a draconian sequester that will harm our military capacity and achieve savings where they are needed the most, in our Nation's growing entitlement apparatus. Title I achieves savings by cutting several newly created slush funds contained in the President's health care law.

Title II makes common sense changes to the Medicaid program. Among other reforms, the committee print eliminates the Medicaid maintenance of effort requirement. This Federal mandate impedes States' ability to implement program integrity measures and actually weakens the safety net by making it more difficult to target resources on the most vulnerable Americans in the respective States.

Title III of our bill achieves savings by including a measure noticeably absent from the President's health care law, real medical liability reform that truly lowers health care costs. The common sense tort reforms included in this package will help end frivolous lawsuits and the practice of defensive medicine and save the taxpayers over \$60 billion in the next decade.

I am glad to report the committee reconciliation recommendations will achieve over \$114 billion in savings over the next decade and exceeds the budget resolutions instructions by some \$17 billion. The committee's reconciliation recommendations offer a credible

alternative path that will help fulfill our commitment to reduce spending.

While reconciliation is the first order of business this week, I would also like to speak briefly about the bills that we have developed to address factors that contribute to the high price at the pump. We have before us the Gasoline Regulations Act and the Strategic Energy Production Act, a pair of measures that address the two critical issues of regulatory costs and long-term supplies.

Gasoline prices do appear to be stabilizing at the moment and that is certainly good news, but we all know a natural disaster or overseas conflict could send prices skyrocketing almost overnight, on top of which paying nearly four bucks a gallon is hardly affordable for struggling families and small businesses working so hard to fuel an economic recovery. We cannot become complacent on these issues and we cannot ignore Federal policies that make energy less affordable and accessible.

Reconciliation will help put us on the path towards a more sound fiscal future while our energy solutions will help lead toward a brighter energy future. I look forward to advancing all of these measures through the committee and would now recognize the ranking minority member, Mr. Waxman from California, for an opening statement.

Mr. Waxman. Thank you, Mr. Chairman. This reconciliation, so-called, is to reconcile to a bill that passed the House but did not pass the Congress, although I think the legislation was deemed passed for the purposes of a reconciliation bill. And what we are doing is

instead of a budget that reduces the deficit in a balanced and fair way, we are taking the Ryan budget, which specifically targets those most in need and puts our Nation's financial recovery at risk.

Let me talk about some of the things in this reconciliation package. First of all, it reneges on the bipartisan budget agreement that 27 Republicans on this committee voted for. Let the Republicans change their minds. Slashes Medicaid in ways that will hurt hundreds of thousands of people, including at least 300,000 children, rather than shielding low-income programs as specified in that budget agreement that passed the House that was worked out with the President and we all voted for. It impedes implementation of the health reform law that is already benefiting millions of Americans instead of providing access to care for the uninsured.

The reconciliation establishes a Federal medical malpractice system that tramples on the meaning of states' rights, a central tenet of what I thought was the Republican way of thinking. It fails to protect Medicare from billions of dollars in cuts under the sequester -- I hope these police aren't here to object to anything any of us have to say -- but perhaps we shouldn't be surprised, because this initiative is completely consistent with that Ryan budget resolution that Republicans passed on the floor last month. Under that resolution defense spending is not only protected from sequestration, but increased and is increased over investments in health, education and research. Medicare eventually is going to have to come to an end and people will have to take a voucher and see what they can buy. The

number of uninsured individuals will certainly rise, but good news, millionaires and billionaires would receive more tax cuts, because the Ryan budget allows the Bush tax cuts to be in place permanently and then adds more tax cuts on top of it.

So we are going to I think vote for reconciliation, I suspect pretty much on a partisan basis. That is going to be a very troublesome one and one that I don't expect is going to be law, at least while we have people in control of the government other than the Republicans who control the House on the Senate side and in the White House.

We are also going to mark up two bills that contain the Republican response to gasoline prices. I don't think we would find too big to fail credible experts who would agree with the idea that these bills are going to reduce gasoline prices at all. House Republicans say the answer to high gasoline prices is more drilling and less environmental protection, yet every economist and oil market expert tells us that this will have no meaningful impact on world oil prices. The global market, the global oil market is so big it is simply is not possible for us to affect prices through increased production here in the United States as envisioned by the legislation.

These bills are about using high gasoline prices as another rationale to advance a deeply anti-environmental agenda. That is political opportunism. The majority knows that all of these bills are going nowhere. We need to stop pretending and get serious about legislating. I urge my colleagues when we get to actually voting on these bills to reject them, and I yield back the balance of my time.

The Chairman. The chair would recognize the chairman of the Energy and Power Subcommittee, Mr. Whitfield, for an opening statement for 5 minutes.

Mr. Whitfield. Thank you, Mr. Chairman, and thanks for having this markup. I think we all recognize that any time you have an increase in cost of gasoline or electricity or anything else, those people in society who can least afford the increase are the ones that are hurt the most by increased costs. This administration has been unusually aggressive in issuing regulations that is going to increase the cost of electricity and they have initiated rulemakings that, if adopted, we believe will also increase the price of gasoline. And so I am going to confine my remarks to two bills that we are going to consider today. One is the Gasoline Regulations Act of 2012.

Mr. Waxman is correct, we don't know that this will lower the cost of gasoline, though we do know that the analysis required by this legislation will help us better understand the potential additional increase of gasoline if these regulations are adopted. And it simply establishes a temporary interagency committee, chaired by the Secretary of Energy, to estimate the cumulative impact of certain Environmental Protection Agency rulemaking and actions on gasoline, diesel fuel, natural gas prices, jobs, the economy, as well as other cumulative costs and cumulative benefits, and submit a final report to Congress within 210 days after enactment. And the three rulemakings that have been initiated that we are referring to is, number one, the Tier 3 Motor Vehicle Emission and Fuel Standards; number 2, the new

or revised performance or emission standards applicable to petroleum refineries; and number 3, new ozone standards. And then we also would require EPA to consider cost and feasibility in setting a new ozone standard. I don't think anyone sees anything wrong to considering cost that a new regulation may require.

And then the second bill is the Strategic Energy Production Act of 2012, which is a very simple bill. Also it simply requires that upon the first drawdown from the Strategic Petroleum Reserve the Secretary of Energy, in consultation with the Secretaries of Agriculture, Interior and Defense, must develop a plan to increase the percentage of Federal lands leased for oil and gas exploration, development and production.

These bills are not complicated and I think everyone in government has a responsibility to at least take into consideration the potential increase in cost of new regulations before they are finalized.

So I would urge all the members to support this legislation. I yield back the balance of my time.

The Chairman. The gentleman yields back. The chair recognizes the gentleman from New Jersey, Mr. Pallone, for 5 minutes for an opening statement.

Mr. Pallone. Thank you, Chairman Upton. Today we are going to mark up a number of bills that I simply cannot support. First we will consider three prints that will be used for what I view as a make believe reconciliation process that was created by the Republicans to redebate the same ideological differences our two parties have argued over in

the last year and a half. But the real reason we are here is because of the a budget passed by the Republicans that would set this country on the wrong path.

Budgets are about more than numbers and dollars. They are real life expressions of priorities, of choices, and of values. Whether you admit it or not, these choices have an impact on the lives of millions of Americans, not just for the fiscal year each budget covers but for future years and future generations.

Now I know that growing deficits are not good for the future, but we can't reduce the deficit and give big tax cuts to the wealthy on the backs of middle class Americans and other vulnerable populations.

Today's health bills are further attempts by the Republicans to repeal critical pieces of the Affordable Care Act and the many positive benefits it provides nationwide. Specifically, I am greatly concerned about the repeal of the Medicaid protections we put in place to prevent growing numbers of the uninsured. The Affordable Care Act is about shared responsibility towards a healthier nation. Individuals, employers, the Federal and the State governments share that responsibility.

The Medicaid maintenance of effort is the States' responsibility in the near term until full health reform is reached in 2014. It is a way to protect access to health care for the most vulnerable populations. By cutting Medicaid eligibility States are not saving money, they are abdicating responsibility and shifting cost.

Eliminating the prevention fund is another misguided proposal.

Prevention is critical for the health of our Nation, and this fund is simply one of the most cost effective uses of our health care dollars. We will also consider repeal of funding to States to implement their own health care exchanges, removing their ability to develop a State specific solution and design for their individual marketplace. And I simply would be remiss if I didn't mention the same old medical malpractice proposal under consideration that has shown zero promise of solving the real problems it purports to address. Meanwhile of course the bill completely up ends centuries of State law. I don't know how many times we will see this same tired bill here in the committee.

The list goes on and on, Mr. Chairman. The Republicans have revealed their misguided priorities yet again by this pursuit of reconciliation, and I urge my colleagues to simply oppose these bills.

And I will close by commenting on the two energy bills also under consideration. My Republican colleagues will claim these are responses to the rising gas prices. One bill will mandate more drilling for oil, which is already the highest it has been in 8 years. But since oil is traded in a global market current gas prices show that increased drilling won't benefit consumers at the pump.

The other bill will block yet to be proposed EPA rules that will protect clean air. Their argument on the Republican side is that EPA proposals not yet in effect are contributing to high gas prices. I don't think you have to be an industry expert to know that that simply doesn't make any sense.

Mr. Chairman, with oil production at its highest level in nearly a decade it is becoming more and more apparent that this leap of prices has more to do with Wall Street speculators than actual supply and demand. Last year for the first time in over a decade imports accounted for less than half the oil consumed in America. And import dependence fell to its lowest levels in 16 years.

We need a comprehensive approach to addressing our present and future energy needs, not two bills that claim to address high gas prices but really do nothing but line the pockets of Big Oil and stop the EPA from protecting the health of Americans.

Democrats, Mr. Chairman, have real solutions to addressing high gas prices, including tapping into the Nation's Strategic Petroleum Reserve, putting more cops on the beat at the CFTC to address oil speculation, something the President has talked about quite a bit, and finally setting higher future efficiency standards so consumers don't have to fill up their tank as often. I think these things should be looked at rather than the bills that we are considering today.

So again I ask that we oppose all these initiatives. They are not really going to do anything. The only thing they are going to do is make the situation worse. I yield back. Thank you, Mr. Chairman.

The Chairman. The gentleman yields back. The chair would recognize the chairman of Health Subcommittee, Mr. Pitts, for 5 minutes.

Mr. Pitts. Thank you, Mr. Chairman. As we all know, Energy and Commerce and five other committees have been tasked with finding enough

mandatory savings to offset the first year of the discretionary sequester contained in the Budget Control Act passed last year. The Budget Committee has instructed us to find \$98 billion in mandatory savings.

As chairman of the Health Subcommittee, I am able to tell you that we have identified all of the necessary savings from within this subcommittee's jurisdiction and no other subcommittees have been affected. These savings proposals are a thoughtful and responsible alternative to the blunt cuts of the sequester and stem from the over 30 hearings the subcommittee has held in the 112th Congress and also from policies in the President's fiscal year 2013 budget request. If the six committees fail to report back to the Budget Committee the necessary amount of savings, the sequester will move forward on January 2nd, 2013, unless Congress acts.

The savings come from three main areas: First, cutting mandatory spending in slush funds that were adopted as part of the PPACA; secondly, reforming Medicaid; and thirdly, adopting medical liability reform.

The first proposal within mandatory PPACA spending is identical to my bill, H.R. 1217, which this committee considered last year and which passed the House floor by a vote of 236 to 183. It will repeal section 4002 of the PPACA which established the Prevention and Public Health Fund. We expect \$11.9 billion over 10 years in savings from this provision.

Also from within the PPACA we propose to repeal the unlimited

State exchange grant authority. This is identical to Chairman Upton's bill, H.R. 1213, which passed the House floor by a vote of 238 to 183. We expect this to save \$14.5 billion over 10 years.

Next, we propose to defund the consumer operated and oriented plan, co-op program, to provide government subsidized loans to qualified nonprofit insurance plans. All unobligated balances would be rescinded. The projected savings are \$900 million over 10 years.

Under the Medicaid category we would repeal the maintenance of effort requirement on States, giving them operational flexibility and saving \$600 million over 10 years. We would also repeal the increased Federal Medicaid funding cap and match rates for the territories, which is projected to save \$6.3 billion over 10 years. We would also rebase the disproportionate share hospital allotments for fiscal year 2022, a policy identical to what was included in President's budget request for fiscal year 2012 and 2013. We expect \$4.2 billion in savings from this provision over 10 years. And we would phase down the provider tax threshold from 6 percent to 5.5 percent. The President's fiscal year 2013 budget went even further and phased down the provider tax threshold to 3.5 percent. This is projected to save \$11.75 billion over 10 years.

Finally, with medical liability reform we propose to use H.R. 5, Dr. Gingrey's bill, as passed by the committee last year. Approximately \$63.9 billion in savings can be expected over 10 years.

These cuts are measured and responsible and ensure that we will honor our commitment to cut spending while avoiding potentially

crippling cuts in the sequester.

Thank you, Mr. Chairman. I yield back.

The Chairman. The gentleman yields back. The chair would recognize the chairman emeritus of the committee from the great State of Michigan, the gentleman from the East Side, Mr. Dingell, for 5 minutes.

Mr. Dingell. Mr. Chairman, I thank you and I express my affection and respect for you.

Mr. Chairman, this is another unfortunate day where we are passing up real opportunity. We could go through and come forward with genuine legislation that would save money in a responsible way. Instead we are passing out a bunch of tired legislation that we have seen before, to which we could say as the great baseball player one time said this is deja vu all over again.

I would start out by expressing my concern about the medical malpractice liability. We could come forward with legislation that would address this matter properly that would allow citizens who have been hurt access to courts. We would see to it that the amount of costs inflicted upon medical practitioners and providers of different kinds were not unduly hurtful to those particular persons, but in fact would enable a fair amount of justice to be awarded to the persons concerned and at the same time provide necessary protections for honest and honorable practitioners of medicine. I would be anxious to join in such an effort. Regrettably we don't do that.

Today we are dealing with legislation that cuts only in the area

of health. No other area is cut. I find that distressing. And in their efforts to reconcile these matters my colleagues have targeted health care and health care alone to cut. They propose Medicaid cuts that would risk the health of our most vulnerable population, including hundreds of thousands of children under the auspices of "program integrity" when CMS already allows for changes to ensure the vital programs such as Children's Health Insurance Program, or CHIP, to maintain integrity. And in the unfortunate case we are seeing that we are cutting away at pieces of the Affordable Care Act, something which has already been enacted and which is already helping millions of Americans.

By attempting to take away the funding for health insurance exchanges, my Republican colleagues are going to force the Federal Government to make decisions that should have been decided by individual States and which could be better decided by those States to address the special concerns that each of the several States happens to have. No one is going benefit from this change and we are going to find that the States are not able to do what they could very well do to meet the needs of their own constituents while at the same time crafting plans and programs which are uniquely suited to the several States, something which the Republicans to my vast distress have spent considerable time complaining about.

I am also concerned about the rising cost of gasoline. Here we find we have two bills before us that will do nothing to address gas prices or to help consumers at the pump. At the Energy and Power

Subcommittee markup last week I noted that none of the rules or regulations to be studied by the new interagency committee created by the Gasoline Regulations Act have even been proposed by EPA.

So we are going to have a large array of important officials in government dropping important business to study legislation or regulations that have never been issued, a most peculiar use of time and in a unique way, I think, of saving money. As my colleagues know, I am sure, that when EPA does propose a rule other agencies and departments are afforded opportunities to submit comments during the interagency review process, and we are jumping clear through this when probably that kind of reviews process is going to get us the answers that we need.

The Strategic Petroleum Reserve Act causes me greater concern, and that is that all of a sudden, as the majority staff has confirmed, major fish and wildlife refuges are going to all of a sudden be subject to oil and gas exploration under questions whose meaning or actual impact we do not know. And this includes areas like the Arctic National Wildlife Refuge, areas in the Great Lakes, the Chesapeake Bay, Florida Everglades, and other extremely sensitive environmental areas. These refuges have been set aside for the benefit of hunters, outdoors men, conservationists. They are of enormous importance to migratory birds and wildlife habitat. And believe it or not, they are bought in large part by the contributions of sportsmen who deposit a \$15 contribution into the migratory bird account each year as they buy their duck stamps. I cannot see why these kinds of changes can be made in the peculiar

fashion in which they are made when in fact we could come up with a much more harmonious and better result in other ways.

I thank you for your recognition, Mr. Chairman. I yield back the balance of my time.

The Chairman. The gentleman yields back. The chair would recognize the gentleman from Florida, Mr. Stearns, for 3 minutes.

Mr. Stearns. Thank you, Mr. Chairman. Today we begin the consideration of three bills. The first will be a budget reconciliation bill to help control some of costs mandated in sequestration, as mentioned before. The other two bills are energy related bills, the Strategic Energy Production Act and the Gasoline Regulations Act.

Now the reconciliation bill several bill includes several measures that this committee has already debated and passed before. The bill includes medical liability caps, an important issue to medical professionals, and makes some changes to Medicaid. Many are part of the President's proposal.

In addition, we eliminate some of the wasteful programs in ObamaCare. The bill repeals mandatory funding for exchanges. Under ObamaCare the Secretary of Health and Human Services has unlimited authority and can spend literally billions of dollars outside of the normal Congressional appropriation process. The bill repeals the Prevention and Public Health Fund, which serves as a slush fund for the Secretary, and lastly, Mr. Chairman, the bill defunds the co-op loan program.

Mr. Chairman, in the Oversight and Investigation Committee we are looking into how HHS has been running this program, and it appears that they may have given loans to groups that do not meet the statutory requirements. It is also troubling that OMB estimates that up to 50 percent of all loans will not be repaid.

Another important issue we will be addressing is raising gas prices. Every 10-cent increase in the cost of gasoline costs American consumers \$11 billion. We must continue to push back against the Obama administration's regulatory assault on domestic energy production.

To that end we will be marking up two bills, the Gasoline Regulations Act, which will establish a temporary interagency committee to estimate the cumulative impact of certain Environmental Protection Agency rulemakings and actions on gasoline, diesel and natural gas prices, jobs and the economy; the Strategic Energy Protection Act, which would require the Secretary of Energy to offset any, any drawdown from the Strategic Petroleum Reserve by developing a plan to increase the percentage of Federal lands leased for oil and gas exploration development and production. A very strong first step. Together these two bills will help lower the cost of energy for consumers and require the White House to do some future planning to address America's energy's need.

With that, Mr. Chairman, I yield back.

The Chairman. The gentleman yields back. The chair recognize the gentleman from Texas, Mr. Green, for 3 minutes.

Mr. Green. Thank you, Mr. Chairman, for the time. I oppose the

Republicans' budget reconciliation recommendations. I am sure they will save money, but so many of their budget cutting ideas cost more in patient safety, quality of care, access and health coverage than it saves in money. When balancing a budget it is necessary to make tradeoffs.

Not everyone can win as we begin the hard work of putting our financial house in order. The Republicans have very clearly shown that they believe budget cutting should be accomplished on the backs of Medicaid patients and the undeserved populations. The proposed cuts to Medicaid and CHIP save \$600 million, a large number of a small part of the total package. As a result of these cuts 100,000 Americans will lose health coverage in 2013, 300,000 additional children lose coverage in 2015. These cuts will cost hospitals, providers and the health system money. The health care needs of these people do not go away just because we cut funding for them. Elimination of the Prevention and Public Health Fund, which is aimed at promoting wellness, preventing disease, and protecting against public health emergencies is a big step back.

Robust funding for these objectives actually saves money in the long run. In health reform the law provided grant money to States that wanted to set up their own exchanges in an effort to allow the exchanges to address the particular needs of these individual States. A while back this was a noncontroversial idea. Now my Republican friends want to keep States from developing their own exchanges. The Federal Government will develop a one-size-fits-all approach and States will

not have the ability to create solutions to address their unique challenges.

Their medical malpractice provisions are bad policy. We can't undermine Americans' rights in courts by placing arbitrary limits on malpractice suits. Most malpractice suits are in state court anyway, and most States, including Texas, has dealt with that.

Without a doubt all the reconciliation items before us today save money now, but if these are approved we can all go home and tell our constituents how much we cut, but our constituents are going to ask at what cost. The cost of these cuts are huge. Our district has the largest uninsured population in the country. These items make this problem much worse. It rolls back coverage for many of my constituents, particularly children. I am committed to balancing the budget. We can't do it by reducing health care coverage for children or hamstringing our Nation's public health preparedness. It doesn't make sense to make cuts now and make a mess later.

Moving on to the energy bills, H.R. 4480, Strategic Energy Production Act, combines two previous unrelated government activities, the operation of the Nation's Strategic Petroleum Reserve and leasing Federal lands for oil and gas production. I am a strong supporter of opening more Federal lands to the oil and gas production, but I do not think we should link these two activities and I certainly don't think we should put the Department of Energy in charge of Federal leasing activities. As such, I plan to oppose the bill.

Finally, I would like to support the Gasoline Regulations Act.

Unfortunately, I do not support section 6 of the bill. This section of the bill would require EPA to consider industry costs when determining what level of the air pollution is safe. By doing this we would be rolling back one of the core aspects of the Clean Air Act which had passed on a bipartisan basis 40 years ago, signed by a Republican President, and was nationally upheld by the Supreme Court in 2001.

Mr. Chairman, I know I ask unanimous consent to place the last two paragraphs into the record.

[The prepared statement of Mr. Green follows:]

***** COMMITTEE INSERT *****

The Chairman. Without objection. The gentleman's time has expired. The chair would recognize the gentlelady from Tennessee, Mrs. Blackburn, for 3 minutes.

Mrs. Blackburn. Thank you, Mr. Chairman. And I really believe that the markup process we are going through today and tomorrow is perhaps the most critical process that we will conduct this year. We have the opportunity to present real savings for the taxpayers in our district and this is exactly what they are wanting to see.

When Congress passed the Budget Control Act last year, we made a commitment to our constituents that the days of Washington's blank check were over with, and this reconciliation process provides real measurable cuts to avoid disastrous cuts to military and seniors while upholding the promise that we made last year. We stand by our word.

With thanks to Chairman Ryan and the Budget Committee, we have before us now a chance to save even more money than we originally promised, and we will do this while also ensuring that the brave men and women of our Armed Forces like those that I represent at Fort Campbell are not unfairly hurt by the broad and dangerous cuts in defense.

We have spent the last 16 months upholding our promise to our constituents by working to repeal and take down the President's health care law. This process continues today. Once again we will take away the President's blank check and return to taxpayers the money from Secretary Sebelius' slush fund.

ObamaCare also gave \$6 billion in loans for the establishment of

the co-op plan. We now know that not only did some of the loan recipients fail to meet the basic statutory criteria for program eligibility, but even the President's OMB estimates that up to 50 percent of all those loans will not be repaid. Today we will rescind all unobligated funds and thus minimize taxpayer exposure from what looks to me like it is going to be very similar to the Solyndra issue.

Everyone on this committee knows that there is money to be saved in the Medicaid program. ObamaCare's provisions put burdensome one-size-fits-all regulations on States and how they must manage through their Medicaid programs. We should repeal these maintenance of efforts and allow the States flexibility to better manage their programs.

Finally, by once again passing medical liability reform we will put patients and physicians in charge of their health care decisions, not trial lawyers.

Combined, our efforts today will save nearly \$100 billion over 10 years, including nearly \$4 billion in fiscal year 2013 alone. By advancing the package we show our commitment to fiscal responsibility and to continue cutting spending we have no choice but to produce these savings. It is in stark contrast, it is a stark choice to continuing. And what we will do is to continue to repeal and wind down programs we know aren't working or accept defense crippling cuts and tax increases.

I thank you so much for the leadership and yield back the balance of my time.

The Chairman. The gentlelady yields back. The chair would recognize the gentlelady from California, Mrs. Capps, for 3 minutes for an opening statement.

Mrs. Capps. Thank you very much, Mr. Chairman.

There are so many questions around today's markup of the committee's reconciliation recommendations. Why is the majority going back on the sequestration agreement that three quarters of its party voted for a mere 8 months ago? Why are we wasting time on a proposal that the Senate will never take up when we could be focusing on more pressing matters like drug safety or strengthening the health care workforce. And why is the majority asking for everyday Americans and only everyday Americans to sacrifice when it asks nothing of the most well off? Continue subsidizing some of the most profitable corporations in the world and reject some needed cuts to wasteful Pentagon spending.

The priorities being pushed here are remarkably clear and the specific effects of this proposal are pretty clear as well. At least 400,000 individuals will lose their health care coverage and the vast majority of them will be children. Small businesses and consumers on the individual market will lose access to State run exchanges to help them purchase private health insurance. Safety net providers will lose critical funds that help them care for the poor and under insured. And our cash strapped States will lost vital funding to support cost effective prevention activities, activities that can save over \$5 for every single dollar invested.

All of this would come on top of the across the board cuts we already agreed to for this fiscal year. Clear we need to address our deficit. That is what the sequestration argument was about, a backstop that asked for shared sacrifice if the so-called supercommittee could not agree to \$1-1/2 trillion in deficit reduction. But that is not what this legislation before us is about. It is another "my way or the highway" approach to governing, an approach that last year brought us to the brink of government shutdown and an unthinkable default on our debt.

The challenges of getting our economy moving again and bringing down our deficit, caring for our veterans, getting health care to all our citizens, the list goes on. These issues are just too important to fall victim to partisan politics, political maneuvers like this bill before us. And so I am extremely disappointed that the majority has once again chosen to focus only on cutting critical domestic programs that affect the health of the middle class. If we want to address the deficit and the sequestration cuts already agreed to, I think it is a worthwhile conversation, but the conversation has to be honest and include all sectors.

So I encourage my colleagues to rethink their position, come together so we can find real compromise to address the deficit while supporting the American people. And I yield back the balance of my time.

The Chairman. The gentlelady yields back. The chair would recognize the gentleman from Georgia for 3 minutes for an opening

statement.

Dr. Gingrey. Thank you, Mr. Chairman. This markup of the reconciliation language is necessary to forestall a 2 percent cut across the board to Medicare seniors and our troops. Therefore, I went to commend Chairman Upton, Chairmen Pitts and Whitfield for bringing this language before us today.

Among the provisions we are considering are two I have championed during the 112th Congress. The first, H.R. 5, the Health Act, seeks to address the rising costs of health care that was only exacerbated by ObamaCare. Yesterday the Medicare trustees reported that our seniors Medicare program will be bankrupt as early as 2017. Medical liability reform can help solve this crisis, and I urge my colleagues to support provision.

The second, H.R. 1683, the State Flexibility Act, seeks to correct a problem threatening our States. The stimulus and ObamaCare made it illegal for States to root out waste, fraud and abuse in the Medicaid program. They are also not allowed to reduce optional populations if they can no longer afford them. This is not an issue of access to health care, as some in this room would have you believe, but one of giving States the opportunity to manage their own budgets. President Obama in the 111th Congress hijacked that right from the States. Today we seek the to begin reversing this process.

I want to thank my colleagues for their support of both of these provisions.

Mr. Chairman, in addition to the important reconciliation

language that will be considered, I would also like to briefly discuss the two bills that were reported by Energy and Power Subcommittee, H.R. 4471, the Gasoline Regulations Act of 2012, and H.R. 4480, the Strategic Energy Production Act of 2012. Both pieces of legislation address an issue that is critically important to all of our constituents, the pain that they feel at the pump. At a time when Americans are paying an average of \$3.85 per gallon for regular gasoline it is imperative that this committee look at the contributing factors influencing cost, including what impact that Federal regulations have on the price of gasoline. H.R. 4471 does just that, by creating a temporary interagency committee to estimate the impact that EPA regulations have on how much we pay at the pump. Furthermore, this legislation delays three additional EPA regulations until 6 months after the study is completed.

Mr. Chairman, I am also in support of H.R. 4480. The Strategic Petroleum Reserve contains approximately 700 million barrels of oil and it was designed to counter a severe supply interruption. Unfortunately, the current administration has used the SPR, Strategic Petroleum Reserve, as a means to address a political disaster that could easily be addressed by further domestic production. H.R. 4480 simply states that if the President chooses to draw down the SPR then the administration must within 180 days after the drawdown open up Federal land for oil and gas exploration that is equivalent to what was removed from the SPR.

I find it to be disappointing that production on Federal lands

have already decreased by 11 percent on President Obama's watch. This important bill reverses this course if the administration should open up SPR outside of its intended purposes.

I urge my colleagues to support the reconciliation language as well as these two important energy bills, and I yield back.

The Chairman. The gentleman yields back. The chair would recognize the gentlelady from Illinois, Ms. Schakowsky, for 3 minutes nor an opening statement.

Ms. Schakowsky. I thank the gentleman. We are here today because the Republican majority would rather provide multi-millionaires with an average \$394,000 tax cut than fund health care for families. We are here today because the Republican majority would rather increase military funding than promote prevention and wellness.

We have to find \$97 billion in cuts and other committees are forced to cut everything from food stamps to consumer financial protections because of misguided Republican priorities. We should be focused on getting affordable health to Americans, the 50 million uninsured and those who are poorly insured, and instead we are considering reconciliation recommendations that would actually take away health coverage. Throwing people off Medicaid does not make them or their health costs disappear.

Another recommendation it would eliminate funding for the State-based health exchanges. We all know families and small businesses that have been locked out of the market, turned down by

private insurers because they have a family member or an employee with a health problem are offered premiums that they simply can't afford. Repealing this funding won't solve their problems. It will just prevent States from adopting solutions.

And again my Republicans colleagues are pushing medical malpractice changes without any assurance that doing so would reduce medical malpractice or lower premiums. The one certainty is that it will trample on states' rights and leave injured consumers without recourse.

We all want to get our fiscal house in order and there are two very different ways to get there. One asks children, families, the disabled and seniors to sacrifice in order to deepen tax cuts for millionaires and billionaires, maintain subsidies for oil and gas companies making record profits already, and allow corporations that ships jobs and profits overseas to avoid their fair tax burden.

The other path, the smarter path, asks the very wealthy and larger corporations to pay their fair share and help solve our Nation's problems. The debate today couldn't be more important in laying out the different visions we have about the future of our country.

And finally, I strongly oppose both the Gasoline Regulations Act and the Strategic Energy Production Act. Despite what the majority will say, these bills will do nothing to make gasoline or other energy sources more affordable. Instead they would eliminate long-standing protections for human health and public lands.

I thank you, Mr. Chairman, and I yield back the balance of my time.

The Chairman. The gentlelady yields back. The chair would recognize the gentleman from Ohio, Mr. Latta, for 3 minutes.

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[4:52 p.m.]

Mr. Latta. Thank you, Mr. Chairman, and this markup comes at a critical time as our Nation's debt approaches \$15.7 trillion. Our consumers, farmers, and small businesses face devastating fuel prices. All the while, the President is restricting leases from energy production while at the same time considering releasing oil from the United States Strategic Petroleum Reserve.

High prices for gasoline and diesel fuel are dragging our economy down, and this is especially true in the rural parts of our country. My district is largely rural, which is very unique in that it also is the largest manufacturing district in the State of Ohio, the largest agricultural district in the State, and also contains the largest number of small businesses in the State of Ohio.

Because my district is geographically spread out, many of my constituents have to drive many miles to and from work every day. As a result, while high fuel prices are hurting all Americans, they have a disproportionately damaging effect on my constituents. Currently gasoline prices in Ohio are around \$3.70 a gallon. For someone driving 30 miles to work every day, that adds up very quickly, and let me just add that I have been in many businesses that have started doing 4-day work weeks for their workers where they work 10-hour shifts instead of 8, so those people only have to drive to work 4 days, so they work

Monday through Thursday, and the other group works Tuesday through Friday.

At the same time, farmers are being hit with high diesel prices that are way back up to the 2008 levels. Filling up a 270-gallon tractor costs approximately \$1,000, about 82 percent higher than in 2009. Diesel prices averaged \$3.84 per gallon in 2011 and are expected to average approximately \$4.15 per gallon this year. This is one of the leading reasons why the American Farm Bureau said that farmers and ranchers will pay almost 85 percent more to plant their crops than they did in the year 2000.

All regulations will be subject to thorough analysis of cost, benefits, and potential hurdles to implementation. This is especially true for regulations that increase fuel prices while they are already near record highs. The Gasoline Regulations Act of 2012 would delay regulations that could significantly increase fuel prices on consumers, farmers, and small businesses while these regulations are under review. Reducing the cost of refining fuel is a great step, but the key to reducing fuel prices is to bring more supply on to the market.

While I do not believe it is appropriate to release oil from the Strategic Petroleum Reserve except for its intended purpose, to counter severe supply interruption, I support legislation that will allow increased access to responsible domestic oil production.

For these reasons, I support these important pieces of legislation and encourage my colleagues to do the same. Mr. Chairman, I yield back.

The Chairman. The gentleman yields back. The chair would recognize the gentleman from Georgia, Mr. Barrow, for 3 minutes.

Mr. Barrow. Thank you, Mr. Chairman. Everywhere I go in my district, folks are worried about the price of a gallon of gasoline. That is why I have introduced the Gasoline Regulations Act along with Congressman Whitfield to try and prevent future unnecessary increases in the cost of energy. I am happy that we mark it up today.

This legislation calls for the EPA to study the true impact that regulations will have on consumers, jobs, and economic growth, including their impact on gasoline prices before those regulations become law. This bill directs the President to establish an interagency committee to study EPA rules and actions that impact gas prices. I think it is a good balance between doing what is right for our economy and our environment, and most importantly I think it will help to lower the price of gas for the American consumer.

Thank you, Mr. Chairman. I yield back the balance of my time.

The Chairman. The gentleman yields back. The chair would recognize the gentleman from Mississippi, Mr. Harper.

Mr. Harper. Thank you, Mr. Chairman, and thank you for ordering today's markup to consider various proposals that aim to improve our Nation's financial outlook and strengthen America's energy security. The 2011 Budget Control Act presented the framework for \$1.2 trillion in Federal savings over the next decade. This figure is to be met in one of two manners, through supercommittee negotiations or across-the-board spending reductions known as sequestration.

Although many principled solutions were offered during the supercommittee discussions, the 12-member bipartisan, bicameral panel was ultimately unable to generate a plan.

Recognizing that sequestration has the potential to damage a range of domestic programs, including national defense, the fiscal year 2011 House-passed budget resolution included language directing this committee and five others to propose legislation producing an equal number of spending reductions over the same 10-year period. Many of the proposals included within this reconciliation recommendation appropriately eliminate unnecessary government spending and draw back unspent Federal dollars.

Further, the committee will also examine two energy-related bills that craft an interagency group tasked with reviewing Federal rules that impact gasoline, diesel, and natural gas prices and delay for 6 months burdensome vehicle standards and require the Strategic Petroleum Reserve drawdown to be offset by an increase in the percentage of domestic energy exploration equivalent to the volume of lost fuel reserves.

During the time when my neighbors in Pearl, Mississippi, are paying \$3.67 per gallon, these bills make sense. When college students, professors, and researchers at Mississippi State University in Starkville, Mississippi, are paying \$3.77 a gallon, these bills make sense. When tree farmers in Liberty, Mississippi, are paying \$3.99 a gallon for diesel to operate their farm equipment, these bills make sense.

Make no mistake about it, this President owns the high price of gas at the pump. To blame all of this on speculation ignores the fact that when the President took office, the average price for a gallon of gas was \$1.84. You look at what happened in the President's actions after Deepwater Horizon. Maybe it would help us if the Secretary of Energy actually drove a car. And I ask this, if supply doesn't impact the price at the pump, why has the President already previously ordered the release of oil from the Strategic Petroleum Reserves?

Again, I thank the chairman for recognizing the importance of advancing targeted spending reductions to replace the scheduled across-the-board cuts. Additionally, I believe that these energy bills will complement our committee's efforts to alleviate pain at the pump.

Thank you, Mr. Chairman, and I yield the balance of my time.

The Chairman. The gentleman yields back. The chair would recognize the gentlelady from the Virgin Islands, Ms. Christensen, for 3 minutes.

Dr. Christensen. Thank you, Mr. Chairman. I oppose all of the recommendations before us, but it is most difficult to put into words how disappointed I am that we are considering a matter that would repeal a provision in the Affordable Care Act that mitigated but by no means ended the unequal treatment that Americans in the five U.S. territories have long received under Medicaid. It would cut Federal funding for Medicaid in the territories by 65 percent over the next decade, dealing the territories a crippling blow. Tomorrow I will offer an amendment

to restore this funding, and I appeal to a sense of fairness and urge you, Mr. Chairman, and my colleagues to support my amendment.

Federal law imposes an annual cap on funding in the territories. Historically, these caps have been shockingly low and, worse, the FMAP for the territories was artificially set by statute at 50 percent, despite the fact that if FMAPs are calculated for the territories in the same way as the States, each territory would have an FMAP in the 75 to 83 percent range. A 2005 GAO report brought this problem into sharp relief, finding that the annual per capita Federal Medicaid spending in the territories was only \$50 compared to \$565 in the U.S. as a whole, and over \$800 in our poorest States with comparable income levels, and there is no way that any of us could provide care for all individuals at or below FPL if we matched only 50 percent. For example, in Puerto Rico the spending cap meant that the Federal Government paid less than 20 percent of total Medicaid program costs each year. Because this second-class citizenship is on its face unconscionable, Democrats in the Affordable Care Act provided \$6.3 billion in additional Medicaid funding to the territories between the fourth quarter of fiscal year 2011 and 2019, and increased the territories' statutory FMAPs from 50 percent to 55 percent. Of this \$63 billion, over 85 percent is for Puerto Rico, and the balance is divided among the four smaller territories. To be clear, this historic and long overdue provision did not come anywhere close to providing the territories with equal treatment, but we have already been using this new funding to increase the number of low-income individuals in

Medicaid and to provide beneficiaries with added essential benefit services, much that was not possible before, and yet in this bill the majority proposes to repeal every penny in new Medicaid funding for the territories and to return us to a prior status that no reasonable observer could believe was fair and that every reasonable observer recognize as discriminatory. And I understand that cutting Medicaid funding to the territories was not even necessary to meet the reduction target, which this committee has exceeded. Unbelievable.

In closing, I want to remind the committee, all my colleagues, that residents of the territories are proud, loyal Americans. They serve in disproportionate numbers in the U.S. Armed Services. In addition to hundreds of thousands of veterans, tens of thousands have been deployed to Iraq and Afghanistan since 2001, and nearly 170 of them have lost their lives. With this bill, you have sent a terrible message to these men and women; namely, that they are American enough to defend our country in combat but somehow not American enough to receive a modicum of fair treatment under a critical Federal health program.

Mr. Chairman, the territory delegates and our allies fought tooth and nail to obtain this funding, and we will fight tooth and nail to retain it.

With that, I yield back the balance of my time.

The Chairman. The gentlelady yields back. The chair would recognize the gentleman from Kentucky, Mr. Guthrie, for 3 minutes.

Mr. Guthrie. Thank you, Mr. Chairman. Tomorrow our committee

moves forward with the reconciliation bill that makes responsible changes in order to meet the targets under the Budget Control Act. In light of the supercommittee's failure, sequestration is scheduled to occur and will result in devastating cuts to defense and many worthwhile Federal programs. With this bill, our committee has taken a responsible scalpel at targeted cuts in order to avoid the hatchet that will occur under sequestration. Many of these provisions are ones that we have examined many times. Repeal of the Medicaid maintenance of effort -- a repeal will restore freedom and flexibility to States. The Prevention and Public Health Fund currently spends billions of dollars on questionable programs, and ending the fund will save valuable taxpayer dollars, and medical liability reform will place reasonable limits on damages and save billions of dollars in our health care system. We were sent to Congress to be good stewards of the taxpayer dollars, and sometimes that requires targeted adjustments to reimbursements or payments. This bill is a responsible approach and is a step toward ensuring the dramatic cuts under sequestration do not take place.

I appreciate the chairman's leadership on this issue and look forward to the consideration of this bill. I yield back.

The Chairman. The gentleman yields back. The chair would recognize the gentleman from Illinois, Mr. Kinzinger, for 3 minutes.

Mr. Kinzinger. Well, thank you, Mr. Chairman. We come here with the unenviable task of reducing spending to avoid in part the devastating impact sequestration would have on our military. In

addressing these budget concerns, we must be able to prioritize defense spending to keep America safe. Defense spending as a share of GDP is already at historic lows, shrinking from 9 percent in 1981 to 5 percent in 2010. If we make additional cuts to crucial defense programs, we jeopardize the readiness and superiority of our military around the world.

While these spending reductions are a bitter pill to swallow, this is the hard work that must be done. We were sent by the American people to make these difficult decisions. It is important that we understand why we are implementing these spending reductions. Sequestration would implement dangerous across-the-board cuts to our national defense. These cuts would be in addition to the \$487 billion in cuts proposed in the President's budget. We need to ensure that spending is prioritized according to the Nation's needs and not cut indiscriminately. We have no greater responsibility than safeguarding the safety and liberty of our fellow citizens from threats at home and threats abroad.

As a current Air National Guard pilot, I have had the opportunity to interact with commanders on the ground and our top leaders in the Pentagon. They have all told me that sequestration cuts would be irresponsible and would be devastating. Just recently the comptroller of the Air Force indicated that sequestration would cut the fiscal year 2013 defense budget by 13 percent if the President were to exempt military pay from reductions. More to the point, Secretary of Defense Panetta noted that sequestration would break faith with those who

maintain our military and seriously damage our Nation's readiness. The choices we face today are not easy. However, they represent a balanced approach to ensure that our military does not become a hollow force.

I urge my colleagues on both sides of the aisle to come together to support these savings, and I yield back.

The Chairman. The gentleman yields back. The chair would recognize the gentleman from Louisiana, Mr. Scalise, for 3 minutes for an opening statement.

Mr. Scalise. Thank you, Mr. Chairman. The three bills before our committee today are important pieces of legislation that I support, and I would first like to applaud Chairman Upton for bringing the reconciliation bill that will save taxpayers \$90 billion. The bill actually addresses important reforms in our health care system, including something very critical to health care reform that President Obama chose not to include in ObamaCare, and that is medical liability reform, where every doctor will tell you that a large percentage of the tests that they run have nothing to do with health care, it is about preventing frivolous lawsuits. So not only will it save patients from having to go through those endless tests that serve no health purpose, but it will also save billions of dollars for taxpayers and reduce health care costs for families.

I am also proud to support the two energy bills before us today, as families are still paying, feeling the pain at the pump because of the radical policies of this administration. You know, we look at the

contrast, and the bills that we are bringing forward to stop things like -- you know, basically to put some rules in place so the President can't use the Strategic Petroleum Reserve as a rainy day fund to go and raid every time his failed policies lead to higher gas prices. We had testimony just in our subcommittee the other day where the Department of Energy acknowledged that the President raided 30,000 barrels just last year from SPR isn't even intending on replacing some of that oil that he replaced. You know, the government used that money, spent it on unrelated things, and in some cases they testified they are not even going to be replacing some of that oil that was taken out of the Strategic Petroleum Reserve last time, and now the President is thinking of raiding it again because, again, his policies have failed us. If you look at the record, this President has had more anti-American energy policies put in place probably than anytime since Jimmy Carter. You just look recently at the Keystone pipeline, the President rejected a million barrels a day from a friend in Canada, 20,000 jobs that he sent to China, billions of dollars of private investment because he just said no to that. On permits in the Gulf of Mexico, you know, the President loves to brag about production has never been higher since he has been President. What he fails to mention is in the areas where President Obama has control, and that is on Federal lands, it is actually down. His own Energy Information Administration has acknowledged that this year we will probably see a 30 percent reduction, reduction in oil and gas production in Federal lands in the Gulf of Mexico, and so we have seen thousands of people leave the

country. We have actually tracked some of the deep water rigs. Since 2 years ago when the Deepwater Horizon exploded, we have seen about a dozen of these deep water rigs leave to go to foreign countries, and each rig represents about a thousand American jobs gone. Gone to countries like Brazil, Egypt, Nigeria, where they think they would like to take a billion dollar, multi-billion dollar asset and move it to a country like Egypt because they think it is better to do business there than in America. That is because of the President's radical policies. And yet he continues to say no to an all-of-the-above energy strategy, and at least we put forward good bills that will not only increase our energy security, create thousands of jobs here at home but it will also eliminate our dependence on Middle Eastern oil and lower the price of gasoline at the pump.

So I appreciate you bringing these bills to our committee, and hopefully we will have a good markup tomorrow, and I yield back the balance of my time.

The Chairman. The gentleman yields back. Thank you. Are there other members wishing to give an opening statement? Seeing none, the chair calls up the committee print entitled Repeal of Certain ACA Funding Provisions and ask the clerk to report.

The Clerk. Proposed Matter for Inclusion in Reconciliation Recommendations, Title I, Repeal of Certain ACA Funding Provisions.

[The information follows:]

***** INSERT 2-1 *****

The Chairman. Without objection, the first reading of the committee print is dispensed with and will be open for amendment at any point. So ordered.

For the information of members, we are now on the committee print entitled Repeal of Certain ACA Funding Provisions. The committee will reconvene at 10 a.m. tomorrow. I would remind members that the chair will give priority recognition to amendments offered on a bipartisan basis. I look forward to seeing all of you tomorrow.

The line has started. Without objection, the committee stands in recess.

[Whereupon, at 5:12 p.m., the committee was adjourned.]