

As the Wall Street Journal recently editorialized about the so-called plan:

In that kind of world, costs will climb even higher as far more people use “free” care and federal spending will reach epic levels.

One wag quipped: “If you think health care is expensive now, just wait until it is free.”

In fact, the first estimate from the nonpartisan Congressional Budget Office shows that just a portion of the Democratic plan, covering only one-third of the uninsured, will cost over \$1 trillion—\$1 trillion to cover 16 million more people.

That is just for one part of the proposed plan. That works out to about over \$66,000 per person.

The administration said last week it wants to rework the plan to bring the cost down below \$1 trillion. Well, that will help. They have not provided a specific number. But what I would like to know is: Do they consider anything below \$1 trillion acceptable—\$999 billion, \$800 billion? What is acceptable here? Is it trying to get it down below \$1 trillion so the sticker shock is not quite so great?

The American people are very worried about our increasing national debt. This only makes the problem worse, not better.

As the Republican leader mentioned in his radio address Saturday, the President used this same economic argument to sell the \$1.3 trillion stimulus package: “We have to move quickly to pass new government spending to help the economy.” Four months later, unemployment has risen to 9.4 percent, much higher than the 8-percent peak the administration said it would be if we quickly passed the stimulus legislation. Now the administration is asking for billions more for a Washington-run health care plan.

As the New York Times noted last Friday, while the Democrats’ bill outlines massive amounts of new spending, it does not explain how it intends to pay for it. That is an important detail. Congress would either have to run up more debt on top of the historic debt already produced by the President’s budget and the stimulus bill, or it will have to raise taxes. That is one area in which our colleagues on the other side of the aisle have actually offered a lot of new ideas: Taxes on beer, soda, juice, and snack food, along with new limits on charitable contributions have all been proposed. But actually, they are a drop in the bucket relative to the amount of new taxes that would be required to fund their plan.

I would like to know: When will we draw the line and try something other than new taxes and massive new government spending to solve the problem?

Americans want health care reform, but most of them don’t want to be saddled with mountains of new debt. As a June 21 New York Times article reported, a new survey shows—and I am quoting—“considerable unease about the impact of heightened government

involvement on both the economy and the quality of respondents’ own care.”

The American people are very worried that their own care, which they are generally satisfied with, will be negatively impacted as a result of the so-called “reform” that is being proposed. That same survey, which was an NBC New York Times survey, also showed that while 85 percent of Americans want serious reform, only 28 percent are confident that a new health care entitlement will improve the economy. So as the President is trying to sell this on the basis that we need it for the economy, only 28 percent of Americans believe that is the case. Frankly, I share their skepticism. It is going to hurt, not help.

We need to reform health care right. I think there is much more virtue in doing it correctly over doing it quickly. President Obama promised change, but there is nothing new about dramatically increasing government spending and adding even more to our national debt. I hope some of my friends on the Democratic side, as well as Republicans, can agree that when it comes to health care reform, we should embrace real changes that support medical innovation and put patients first. That is the answer. That is what the American people want.

Mr. President, I note 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. DURBIN. Mr. 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. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

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

HEALTH CARE

Mr. DURBIN. Mr. President, the Senate is considering many issues now of great importance, but none more important to the American people than the future of health care in this great Nation.

This weekend, a new poll was released by the New York Times and CBS. Eighty-five percent of the people surveyed said the health care systems in America need fundamental change or to be completely rebuilt—85 percent. So people sense all across this country that though we have great hospitals and doctors, there is something fundamentally flawed with our system, and we can understand why. We are spending more money than any other country on Earth and we are not getting the medical results we want; and there is real uncertainty that average people won’t be able to keep up with the costs of health insurance, the bat-

ties with health insurance companies over coverage, and whether at the end of the day they can have the quality health care every single person wants for themselves and their family.

They asked the American people which party they trusted to deal with health care reform, and 18 percent said they trusted the party on the other side of the aisle—the Republicans, while 57 percent trusted the Democratic majority. Even one out of every four Republicans said that the Democrats would do a better job in creating a better health care system.

People on this side of the aisle want a bill that works with the current system and fixes what is broken. We not only want to respond to the 85 percent of people who want change, we are listening to 77 percent of the people who say they are satisfied at this moment with the quality of their own care. So the starting point is if you have health insurance you like and it is good for your family, you can keep it. We are not going to change that. It is a tricky balance but one we have to address: how to preserve what is good but fix what is broken.

One of the foundations is the so-called public option. A lot of people don’t know what that means, but it basically says there should be an option to private health insurance companies that is basically public in nature. We have a lot of public health now in America. Medicare is the obvious example. Forty million people count on Medicare to provide affordable, quality care in their elderly years and during their disabilities. The Medicaid Program is another one for the poor people in our society. We have veterans health care. There are ways that we involve the government in health care that have been proven to be successful—not just for years but for decades.

Many folks on the other side of the aisle come to the floor warning us about government involvement in health care. I have not heard a single one of them call for the end of Medicare or the end of veterans’ care, not a one of them. We asked the American people: What do you think about a government health care plan as an option—a choice—for you so that you can choose from the well-known names in health insurance, private companies, but then you also have one other choice; you can pick the public plan, the public interest plan, the government plan. This poll taken by the New York Times and CBS found that there was broad bipartisan backing for a public option. Half of those who call themselves Republican say they would support a public plan, along with nearly three-quarters of Independents. This chart here shows the question: Would you favor or oppose the government offering everyone a government-administered health insurance plan such as Medicare that would compete with private health insurance plans? All respondents—72 percent—said they favored it. Only 20 percent were opposed.

So three to one favor the idea of a public health care plan. Fifty percent of Republicans do, 87 percent of Democrats, and 73 percent of Independents.

Then we asked the harder question: Are you willing to pay more or higher taxes so that all Americans can have health insurance that they can't lose no matter what happens? Look at this number: Fifty-seven percent of all who responded said they are willing to pay higher taxes if it means that everybody has peace of mind that health insurance would be there. Those making less than \$50,000, 64 percent of those folks support it, and those with incomes over \$50,000, 52 percent supported it as well.

Many of the people coming to the floor on the other side of the aisle don't agree with the vast majority of Americans when it comes to this issue. I commend my colleagues on the other side of the aisle for at least coming to engage us in this debate, but we do see things a lot differently. We have heard a lot of Republicans coming to the floor discussing health care. Many of them have been critical of change. Maybe it has been made clear to a majority of the American people that those who are waiting on Congress to act may see some on the other side of the aisle reluctant and slow, while those on our side of the aisle are trying to follow President Obama to a solution. Regardless of the reason, it seems that most of the Republicans' approach to this can be summarized in three words: deny, delay, and ration. That is what we have heard from the Republicans on health care reform.

The Republican leader started it 2 weeks ago. We heard it from him again last week, and no doubt we will hear it from him again this week, as well as from the Republican whip. Perhaps they think if they keep drilling home these three words—deny, delay, and ration—that people will lose their appetite for change in our health care system.

When our economy was in a deep freeze earlier this year with the recession that President Obama inherited, he called on us to enact landmark legislation to try to get this economy moving forward. It was an effort that was resisted by the other side of the aisle. We ended up with three Republicans at the time who supported us, even though the President asked them personally to be engaged, to be involved, and to help us solve this problem. But they denied that the problem was as great as it was. They wanted to delay consideration of the legislation, drag it out as long as possible, and then they wanted to limit, or ration, the dollars we put into recovery. They thought the economy would get well all by itself. If we had given in to their view, I am afraid unemployment figures today would be even higher, economic output anemic, and many of our States facing bankruptcy today would be faced with even worse circumstances. So we went forward. We would not allow the Republican ap-

proach when it came to recovery and reinvestment in the American economy.

We see the strategy now repeatedly from the Republican side of the aisle. It seems to be their approach to governing or not governing. They want to deny requests on the floor to move to legislation. Last night was the most recent. Here is a bill which nobody argues against to increase tourism in the United States, bring in more foreign visitors who will spend more money, who will help hotels and restaurants and airlines and businesses, large and small. Eleven Republicans cosponsored it. Last night we said, OK, let's pass it. Let's get it done. Let's move on. This is the type of thing that is good, but it shouldn't take all of this time to do. Only 2 of the 11 Republicans who cosponsored the tourism bill were willing to vote for it last night. They wanted to delay this again. They want us to end up this week accomplishing little or nothing. At the end of the week, if they get us to do nothing, they consider it a successful week. I don't see how it can be. This bill we are talking about on tourism is designed to help create jobs in this country—something we desperately need.

Health care is a serious issue which we need to move on and not delay. Democrats believe the role of the Federal Government is to keep the best interests of the American people in mind. Half of those questioned in the New York Times-CBS poll said they thought the government would be better at providing medical coverage than private insurers. Incidentally, that number is up from 30 percent a couple of years ago. Nearly 60 percent said Washington would have more success in holding down the costs, up from 47 percent.

The American people know the government doesn't want to deny people health care, delay their services, or ration, but it is no surprise the Republican leaders still use these words. That is their playbook. It is a playbook that was written by a pollster, an adviser and counselor whom I know—Frank Luntz. Mr. Luntz has been around a long time. He is the guru, the go-to guy, the great thinker on the Republican side of the aisle. He calls himself in his own publications Dr. Frank Luntz. Well, it looks as though when it comes to strategy on health care reform, the Republicans are more focused on Dr. Frank than they are on the realities that doctors and patients face in America every single day. Dr. Frank give them a 28-page memo on how to stop health care reform before we had even put a bill on the table.

There are those who want to stop health care reform before they know what is in it. Do you know who they are? They are the people who are today making a fortune on the current health care system. They see their profitability at risk if there is health care reform.

It is no wonder that you hear Dr. Frank come up with proposals for the

Republican side of the aisle, which are then repeated here on the floor of the Senate. On page 15 of his marching orders, Frank Luntz wrote:

It is essential that "deny" and "denial" enter the conservative lexicon immediately.

On page 24, he said:

Of the roughly 30 distinct messages we tested, nothing turns people against what Democrats are trying to do more immediately than the specter of having to wait.

On page 23 of the memo of Dr. Frank Luntz, he wrote:

The word "rationing" does induce the negative response you want. . . .

He says that to his Republican followers.

. . . "rationing" tests very well against the other health care buzzwords that frighten Americans.

That last phrase caught my attention, because more and more of what we hear from the other side of the aisle in criticizing President Obama's agenda is fear—be afraid, very afraid, be afraid of change.

The American people weren't afraid of change last November; they voted for it. They asked for change in the White House. I think they said it overwhelmingly. We have seen change. What we hear from the Republican side is to be afraid of change. That is their mantra, whether it is a question of changing the economy as it was under the Bush administration, changing health care as it has been for years, changing education so that we get better results, the Republicans say be afraid of this, be frightened.

I think that is, unfortunately, their motto. They have used it time and again. I don't think it is what Americans feel. We are a hopeful nation, not a fearful nation. We want to be careful but not afraid. We want to make the right decisions and make them on a cooperative basis and bring everybody in a room and try to come up with a reasonable answer. But we should not be afraid to tackle these things and not frightened by the prospect that it might be hard work. As the President said about health care reform, if it were easy, it would have been done a long time ago. That is something we all need to look at and understand.

I can tell you that Democrats recognize the status quo, the way we have been doing things forever, isn't working for millions of Americans when it comes to health care. The idea of having the public insurance plan option is a course to make sure that we keep the private profitable health insurance companies honest, and see that they have some competition; otherwise, we are stuck with the current system, where they can make a blanket decision that people with preexisting conditions have no coverage or they can decide what your doctor thinks is the best procedure is something they won't pay for.

American families deserve health insurance that does not force families to face limitless out-of-pocket expenses.

Americans want real health insurance reform. This public option is going to promote that kind of choice.

My colleagues on the other side of the aisle continue to assault this idea of public insurance, insisting it is too much government. The minority leader on the Republican side said Americans don't deserve a health care system that forces them into government bureaucracy that delays or denies their care and forces them to navigate a web of complex rules and regulations. Of course they don't.

Raising that fear, as suggested by Dr. Frank Luntz, the Republican strategist, is what they want to do—plant the seeds in the minds of people that any change will be bad. I don't think the American people feel that way. If you want to see a bureaucracy, try getting through a call to your health insurance company after you get the letter that says they won't cover the \$1,500 charge for the procedure your doctor ordered. Talk to someone who can no longer get health insurance because of an illness they had years ago, a preexisting condition, or because they are too old in the eyes of health insurance companies. Ask them how streamlined or efficient conversations are with insurance companies today.

If you want to see a bureaucracy, talk to a small businessman in Springfield, a friend of mine, who had to jump through a series of hoops to find a way to continue health care coverage for his employees and keep his business going. Plain and simple, health insurance today is a bureaucracy. It is one most people know firsthand. Americans and small business owners face it every day.

We need to move to a new idea, an idea not based on the health insurance companies' model. Frankly, they are the ones who are profiting.

Last year was a bad year for most American businesses. According to CNN and Fortune Magazine, only 24 Fortune 500 companies' stocks generated a positive return last year. Among those that didn't have that were GM, United Airlines, Time-Warner, Ford, CBS, and Macy's. All these companies lost billions in what financial analysts tell us was the fortune 500's "worst year ever."

There were two sectors of the economy that did well—the oil industry and the health insurance industry. The top four health insurance companies in America—UnitedHealth Group, WellPoint, Aetna, and Humana—made more than \$7.5 billion in combined profit last year, while the bottom fell out for virtually every other company, short of the oil industry, across the board.

The goal with the Democratic health reform bill is to create health care that values patients over profits and quality more than bottom line take-home pay and bonuses.

Republicans want to preserve a broken system, one with escalating costs and no guarantee the policy will be

there when you need it. Rather than help insurance companies, Democrats want to put American families first and help those struggling with high health care costs.

This is a moment of truth for us in this Congress. This isn't an easy issue. Right now, the Finance Committee and HELP Committee are working hard to put together health care reform. Without it, things are going to get progressively worse. The cost of health care will continue to rise to unsupportable levels. Even if individuals have a good health insurance plan today, it may cost too much tomorrow. Even if they think their health insurance covers them well today, they may be denied coverage tomorrow. Businesses that want to keep insuring their employees worry over whether they can be competitive and still pay high health insurance premiums. Individuals worry about this as well.

The last point I want to make is that I think the President is right to say to us that we have to get this job done. I say to my friends on the other side of the aisle: Don't deny the obvious. Don't come to the floor and deny the need for health care reform. It is real. We need it in this country, and 85 percent of the American people know it. The Republican leadership should come to know it in the Senate.

Second, don't dream up ways to delay this important deliberation. That isn't serving our country well. If justice delayed is justice denied, the same is true regarding health care reform. Delaying this into another Congress and another year doesn't solve the problem. It makes it worse. We need to face it today, and we need a handful of Republicans who will step away from the Republican leadership and say they are willing to talk, that if this is a good-faith negotiation to find a reasonable compromise, they are willing to do it. It has happened in the past—even a few months ago; it can happen again. It will take real leadership on their side.

The President said his door is open. The same thing is true on the Democratic side. The door is open for those who want to, in good faith, try to solve the biggest domestic challenge we have ever faced in the Senate. We have that chance to do it. We honestly can do it if we work in good faith.

But denying the problem, delaying efforts to get to the problem, and deciding we are only going to do a tiny bit of it so we can move on to something else is, unfortunately, a recipe for disaster. It is one the American people don't deserve and one we should avoid.

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

The PRESIDING OFFICER (Mrs. GILLIBRAND). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. UDALL of Colorado pertaining to the introduction of S. 1321 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. UDALL of Colorado. 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. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MCCONNELL. Madam President, I ask unanimous consent that Senator SESSIONS and I be granted 20 minutes.

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

SOTOMAYOR NOMINATION

Mr. MCCONNELL. Madam President, this morning I would like to turn my attention to the nomination of Judge Sonia Sotomayor to the Supreme Court and more specifically to the so-called empathy standard that President Obama employed in selecting her for the highest Court in the land.

The President has said repeatedly that his criterion for Federal judges is their ability to empathize with specific groups. He said it as a Senator, as a candidate for President, and again as President. I think we can take the President at his word about wanting a judge who exhibits this trait on the bench. Based on a review of Judge Sotomayor's record, it is becoming clear to many that this is a trait he has found in this particular nominee.

Judge Sotomayor's writings offer a window into what she believes having empathy for certain groups means when it comes to judging, and I believe once Americans come to appreciate the real-world consequences of this view, they will find the empathy standard extremely troubling as a criterion for selecting men and women for the Federal bench.

A review of Judge Sotomayor's writings and rulings illustrates the point. Judge Sotomayor's 2002 article in the Berkeley La Raza Law Journal has received a good deal of attention already for her troubling assertion that her gender and ethnicity would enable her to reach a better result than a man of different ethnicity. Her advocates say her assertion was inartful, that it was taken out of context. We have since learned, however, that she has repeatedly made this or similar assertions.

Other comments Judge Sotomayor made in the same Law Review article underscore rather than alleviate concerns with this particular approach to judging. She questioned the principle that judges should be neutral, and she said the principle of impartiality is a