dealt with renewed and increased commerce in an Arctic that is potentially ice free.

I applaud him for his efforts and, again, shining the light on this issue. It seems every day the rest of the country, the rest of the world, is looking to the Arctic for our science, looking to the Arctic for the knowledge of our elders and researchers, and looking to the Arctic as a true leader in global environmental policies.

I applaud him, and I am privileged to be able to support him in so many of these efforts, working on the issues that are important to, of course, our State but to the Nation as a whole.

LU YOUNG

Ms. MURKOWSKI. Mr. President, my colleague mentioned the passing of a very dear friend. I wish to take a moment this afternoon to also acknowledge the passing of Lu Young.

This is a sad day for us in Alaska as we come to grips with the very sudden passing of Congressman YOUNG's wife. They have been a team for some 46 years. She died this weekend at their home in Great Falls, VA. She was only 67 years old.

Lu Young was an Athabascan Indian from the village of Fort Yukon. Fort Yukon, you may have seen on Senator BEGICH's map, is in the interior part of the State. It sits 7 miles above the Arctic Circle on the north bank of the Yukon River. It is about 145 air miles north from Fairbanks.

Congressman YOUNG met Lu in Fort Yukon. This is back in the days when he was a tugboat captain operating a barge, carrying products and supplies up and down the river. DON taught in the wintertime at the BIA schools. Lu was the bookkeeper there in the village. They met, they married, and had 46 years of honest wedded bliss.

I have to tell you, it is not often one can look at a couple after 46 years of marriage and still see the love and the gleam and the warmth between two individuals, one for another. Every day we saw that. If Lu wasn't with DON, DON was talking about Lu.

He used to joke when he was in his campaigns: ''You get two for the price of one.'' He wasn't kidding. DON was in his office every day, and Lu was also in the office every day over at the Rayburn Building. She would greet Alaskans as they would come in. She would make sure they were comfortable or if she thought they were taking too much of DON's time, she would tell them that too. She would take people over to the restaurant for lunch. She welcomed Alaskans as part of their family.

We have a very close and intimate relationship with those we represent in Alaska. As my new colleague is recognizing, we are a long way from home, so we kind of band together. We are part of an extended family.

Lu was a constant in DON YOUNG's office. She ensured that Alaskans who traveled to Washington, DC, would know that the Congressman for all Alaska was going to take care of you. She was also reminding DON every day: Don't forget where you come from. Anyone who has ever been to DON's office knows it looks and feels very much like Alaska. Lu made sure that was never going to change.

Today the people of Alaska are not thinking of Lu's contributions to DON's political career. They are reflecting on the truly remarkable love between the two of them. In a statement this morning, Congressman YOUNG summed it up. He said: ''Lu was my everything, and I am heartbroken.'' That loss breaks the golden hearts of all Alaskans as we remember our own experiences with Congressman YOUNG's partner, his best friend, and his heart.

Congressman YOUNG has lost the love of his life, and Alaskans have lost a great friend. Regardless of political persuasion, all of Alaska grieves with Congressman YOUNG, his daughters, Joni and Dawn, and their husbands, 14 grandchildren, and an extended family of lifelong friends throughout the great land.

I yield the floor.

Mr. ALEXANDER. Mr. President, of course, all of us extend our sympathies to Congressman YOUNG and his family. The remarks of the Senators from Alaska spoke for all of us.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

ORDER OF PROCEDURE

Mr. ALEXANDER. Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. There is 23½ minutes remaining.

Mr. ALEXANDER. Will the Chair please let me know when 10 minutes remain?

The ACTING PRESIDENT pro tempore. Yes.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that Senator KYL and I be permitted to engage in a colloquy during our time.

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

MIDDLE-CLASS TAX INCREASE

Mr. ALEXANDER. Mr. President, a few minutes ago, I was waiting to give a television interview with MSNBC. The White House press secretary, Robert Gibbs, was on. He said a most astonishing thing. He was there, obviously, for the purpose of an impromptu press conference to correct what I thought was a truthful impression left yesterday by two members of the Obama administration. Both Mr. Summers and Mr. Geithner yesterday did not rule out the possibility of a middle-income tax increase. That was widely reported all over the country today. Apparently, they were taken to the woodshed this morning, and Mr. Gibbs was sent out to say: Oh, no, we are not going to raise taxes on middle income Americans.

But that is misleading, at best, to the American people. Most people know that. An article in the New York Times on August 1, was titled: ''Obama's Pledge to Tax Only the Rich Can't Pay for Everything, Analysts Say.''

Among those quoted is Leonard Burman, ''a veteran of the Clinton administration Treasury and director of the nonpartisan Tax Policy Center.''

''This idea,'' he says, ''that everything new that government provides ought to be paid for by the top 5 percent, that's a basically unstable way of governing.''

I am sure the Senator from Arizona remembers Isabel Sawhill's distinguished service. She had some comments on tax increases as well. ''There is no way we can pay for health care and the rest of the Obama agenda, plus get our long-term deficits under control, simply by raising taxes on the wealthy,'' said Isabel V. Sawhill, a former Clinton administration budget official. ''The middle class is going to have to contribute as well.''

I wonder if the Senator from Arizona, who is a veteran member of the Finance Committee, is surprised to see, first, the two top finance people for the Obama administration say we are not going to rule out a middle-class tax increase, and then all of a sudden today, the Obama administration says no, nope, we are going to rule that out again. What is going on?

Mr. KYL. Mr. President, I say to my colleague, I had the same impression yesterday when I saw Mr. Geithner and Mr. Summers on television. They, frankly, were recognizing the reality of the situation. I did not think that much of it because the truth is, the people my colleague has quoted are absolutely right. You cannot do all the things the President wants to do without raising taxes, and inevitably that will be on the middle class.

To put in the RECORD what both Treasury Secretary Geithner and Mr. Summers said—this is as reported by George Stephanopoulous, ''This Week'' host for ABC. He said:

> To get the economy back on track, will President Obama have to break his pledge not to raise taxes on 95 percent of Americans? In a ''This Week'' exclusive, Treasury Secretary Tim Geithner told me, ''We're going to have to do what's necessary.'' Then Stephanopoulous continues:
>
> When I gave him several opportunities to rule out a middle-class tax hike, he wouldn't do it. ''We have to bring these deficits down very dramatically,'' Geithner told me. ''And that's going to require some very hard choices.''

Of course it is. Secretary Geithner is right. It is pretty hard to deny.

Then the National Economic Council Director, Lawrence Summers, was asked by Bob Schieffer on CBS if taxes could be raised for middle-income Americans. Summers said:

> There is a lot that can happen over time. It is never a good idea to absolutely rule out things no matter what.

Then he said that what the President has been completely clear on is he is not going to pursue any of these priorities—not health care—in ways that are primarily burdening middle-class families. That is something that is not going to happen.

There seems to be a subtle switch here to, first of all, never say never and, secondly, say the tax burden is not going to primarily fall on middle-class Americans.

I say to my colleague, when you look at some of the provisions that are in the House of Representatives bill on health care, in the Senate HELP Committee on health care, and some of the things that are being considered by the Finance Committee, in all three situations, you do have taxes on working American families, middle-class families.

I think that what the Secretary and Mr. Summers said Sunday is actually more true than what the press secretary tried to make it out to be. It is simply the recognition of a reality—that you can't pay for all of this and not impose taxes on middle Americans.

Mr. ALEXANDER. Mr. President, I agree with the Senator. His point is a valid one. It is not a matter or are they going to propose middle-income tax increases. In the health care plans, we already see that happening. For example, in the proposed payroll tax or jobs tax on employers to pay for the proposed health care plan coming out of the House of Representatives, there is a very large tax. It could be up to 8 percent of payroll. Quoting from the Wall Street Journal editorial of July 30:

> So who bears the burden of this tax? The economic research is close to unanimous that a payroll tax is tax on labor and is thus shouldered mostly if not entirely by workers.

This is a middle-income tax increase already proposed. Then there is another issue that bothers me, especially as a former Governor. Our current Governor of Tennessee called it the ''mother of all unfunded mandates.'' If we add, as is proposed by both bills, another 20 million people to Medicaid—which is for low-income people, and the States help pay for that—that is more than 300,000 new people for Tennessee.

The estimates we have gotten from Tennessee's department of Medicaid, TennCare, is that would cost enough money to equal the amount raised by a 5-percent new State income tax. If we actually pay doctors a sufficient amount to cause them to see these people who are dumped into Medicaid, then Tennessee would need a total of a 10-percent new State income tax. That is another middle-income tax increase.

Mr. KYL. Mr. President, I would just ask my colleague also if he is aware that there are some other proposals in these various Democratic bills. One is that all individuals would be required to buy medical insurance. There would be a penalty if they refused to do so that would go directly to their income tax. I believe the latest proposal I saw was 2.5 percent of your income tax. There would be a penalty imposed if you didn't buy insurance.

Now, what happens to, let's say a young man or woman who has just graduated from college, who are no longer on their parents' insurance policy and they are now going to be required to go into a risk pool along with everybody else? Or let's say they have been paying a modest amount for their insurance through their college, perhaps. What is likely to happen when they are thrown into the pool of other Americans, all of whom are required to purchase insurance? Will their premiums go down, or what is the estimate of what will happen to the premiums of these young people?

Mr. ALEXANDER. The Senator makes a good point. If you are young and in America and you are forced into the health plan that is passing the House, your costs are going to go up, and that is a mandate or a tax that absolutely will go up. So the Senator is exactly right.

For every young person in America who is in this plan, their health care costs are, by definition, going to go up. Their health care costs are going to go up to help pay for older Americans whose benefits, I might add, are going to go down because half of the health care plan is going to be paid for by Medicare cuts. These Medicare cuts will not make Medicare solvent, but grandma's Medicare benefits are going to be cut to help pay for this new health program.

Whether it is a benefit cut or a tax increase, there are a lot of middle-income Americans who are already looking at a very big change in their economic circumstances.

Mr. KYL. Mr. President, I know we just have a couple of minutes left. There are several other examples—one that is being considered by the Finance Committee, I know. It is to amend the provision of the Tax Code by which if you itemize your deductions and you have medical expenses that exceed 7½ percent of your adjusted gross income, you would get to deduct that from your income tax.

There are two different proposals pending in the Finance Committee. In both cases, there would be a new tax imposed. The problem is, according to the Joint Committee on Taxation, replacing the existing deduction with the new provision would increase taxes by $48 billion over 10 years. Who does it hit? Fifty-two percent of the taxpayers who claim the deduction earn under $50,000 a year. These are not the wealthy Americans the President was speaking of. Forty percent of the taxpayers who claimed the deduction are over the age of 65.

I guarantee you in Arizona we are going to look at that provision because a lot of our folks are over 65 and they rely upon the income-tax code to ensure if they have a catastrophic expense in any given year that they have the ability to deduct a portion of that.

Mr. ALEXANDER. As the Senator knows, we have heard about limited taxes before. We actually have a millionaire tax on the books, passed in 1969, 40 years ago, where 155 high-income Americans were avoiding paying Federal income tax. There was the cry: So let's tax them. And so we did.

Well, today that is called the alternative minimum tax. Every year we have to change it because this year it was going to affect 28 million Americans. People who are making $46,000 or $47,000 as individuals or $70,000 filing jointly were suddenly affected by the millionaires tax. So beware of the millionaires tax because it soon catches us all.

Mr. President, I thank the Senator from Arizona for his time. I see Senator MCCAIN, and I yield the remainder of my time to him. But before doing so, Mr. President, I ask unanimous consent to include the August 1 New York Times article and the July 30 editorial from the Wall Street Journal, to which I referred.

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

[From the Wall Street Journal, July 30, 2009]

THE PELOSI JOBS TAX

Even many Democrats are revolting against Speaker Nancy Pelosi's 5.4% income surtax to finance ObamaCare, but another tax in her House bill isn't getting enough attention. To wit, the up to 10-percentage point payroll tax increase on workers and businesses that don't provide health insurance. This should put to rest the illusion that no one making more than $250,000 in income will pay higher taxes.

To understand why, consider how the Pelosi jobs tax works. Under the House bill, firms with employee payroll of above $250,000 without a company health plan would pay a tax starting at 2% of wages per employee. That rate would quickly rise to 8% on firms with total payroll of $400,000 or more. A tax credit would help very small businesses adjust to the new costs, but even a firm with a handful of workers is likely to be subject to this payroll levy. As we went to press, Blue Dogs were taking credit for pushing those payroll amounts up to $500,000 and $750,000, but those are still small employers.

So who bears the burden of this tax? The economic research is close to unanimous that a payroll tax is a tax on labor and is thus shouldered mostly if not entirely by workers. Employers merely collect the tax and then pass along its costs in lower wages or benefits. This is the view of the Democratic-controlled Congressional Budget Office, which advised on July 13: ''If employers who did not offer health insurance were required to pay a fee, employee's wages and other forms of compensation would generally decline by the amount of that fee from what they otherwise would have been.''

To put this in actual dollars, a worker earning, say, $70,000 a year could lose some $5,600 in take home pay to cover the costs of ObamaCare. And, by the way; this is in addition to the 2.5% tax that the individual worker would have to pay on gross income, if he doesn't buy the high-priced health insurance that the government will mandate. In sum, that's a near 10-percentage point tax on wages and salaries on top of the 15% that already hits workers to finance Medicare and Social Security.

Even Democrats are aware that his tax would come out of the wallets of the very workers they pretend to be helping, so they inserted a provision on page 147 of the bill prohibiting firms from cutting salaries to pay the tax. Thus they figure they can decree that wages cannot fall even, as costs rise. Of course, all this means is that businesses would lay off some workers, or hire fewer new ones, or pay lower starting salaries or other benefits to the workers they do hire.

Cornell economists Richard Burkhauser and Kosali Simon predicted in a 2007 National Bureau of Economic Research study that a payroll tax increase of about this magnitude plus the recent minimum wage increase will translate into hundreds of thousands of lost jobs for those with low wages. Pay or play schemes, says Mr. Burkauser, ''wind up hurting the very low-wage workers they are supposed to help.'' The CBO agrees, arguing that play or pay policies ''could reduce the hiring of low-wage workers, whose wages could not fall by the full cost of health insurance or a substantial play-or-pay fee if they were close to the minimum wage.''

To make matters worse, many workers and firms would have to pay the Pelosi tax even if the employer already provides health insurance. That's because the House bill requires firms to pay at least 72.5% of health-insurance premiums for individual workers and 65% for families in order to avoid the tax. A Kaiser Family Foundation survey in 2008 found that about three in five small businesses fail to meet the Pelosi test and will have to pay the tax. In these instances, the businesses will have every incentive simply to drop their coverage.

A new study by Sageworks, Inc., a financial consulting firm, runs the numbers on the income statements of actual companies. It looks at three types of firms with at least $5 million in sales: a retailer, a construction company and a small manufacturer. The companies each have total payroll of between $750,000 and $1 million a year. Assuming the firms absorb the cost of the payroll tax, their net profits fall by one-third on average. That is on top of the 45% income tax and surtax that many small business owners would pay as part of the House tax scheme, so the total reduction in some small business profits would climb to nearly 80%. These lower after-tax profits would mean fewer jobs.

To put it another way, the workers who will gain health insurance from ObamaCare will pay the steepest price for it in either a shrinking pay check, or no job at all.

[From the New York Times, Aug. 1, 2009]

OBAMA'S PLEDGE TO TAX ONLY THE RICH CAN'T PAY FOR EVERYTHING, ANALYSTS SAY

(By Jackie Calmes)

WASHINGTON.—Behind Democrats' struggle to pay the $1 trillion 10-year cost of President Obama's promise to overhaul the health care system is their collision with another of his well-known pledges: that 95 percent of Americans ''will not see their taxes increase by a single dime'' during his term.

This will not be the last time that the president runs into a conflict between his audacious agenda and his pay-as-you-go guarantee, when only 5 percent of taxpayers are being asked to chip in. Critics from conservative to liberal warn that Mr. Obama has tied his and Congress's hands on a range of issues, including tax reform and the need to reduce deficits topping $1 trillion a year.

''You can only go to the same well so many times,'' said Bruce Bartlett, a Treasury official in the Reagan administration.

In the budget, Mr. Obama and Congress have already agreed to let the Bush tax cuts for the most affluent expire after 2010, as scheduled, but to extend them for everyone else. The top rates, now 33 percent and 35 percent, will revert to Clinton-era levels of 36 percent and 39.6 percent.

The critics do not have a beef with the government's taking more from the wealthiest Americans, especially given the growing income gap between the rich and everyone else. They object to doing so for health care over other pressing needs.

''I want to tax the rich to reduce the deficit,'' said Robert D. Reischauer, a former director of the Congressional Budget Office who heads the Urban Institute, a center-left research group. Similarly, Mr. Bartlett, a conservative analyst who often chastises Republicans for their antitax absolutism, supports overhauling the tax code to raise revenues.

As these analysts recognize, taxing the rich has its limits both economically and politically, such that members of Congress are not likely to tap that well again and again.

Polls show strong majorities supporting higher taxes on those earning more than $250,000 a year, Mr. Obama's target group. Yet some Congressional Democrats are fearful of Republicans' attacks that ''soak the rich'' tax increases will douse small-business owners, too, even if the number of those affected is far less than Republicans suggest.

Also, higher rates like those in the House health care legislation could lead to tax avoidance schemes, reducing the government's collections and warping business decisions, analysts say.

The House measure calls for surtaxes ranging from 1 percent on annual income of $280,000 to 5.4 percent on income of $1 million and more. The millionaires' surtax would push the top tax rate to 45 percent, the highest since the 1986 tax code overhaul lowered all rates in return for jettisoning a raft of tax breaks for businesses and individuals.

But the effective top rate would be higher still, counting the 2.9 percent Medicare payroll tax and state and local income taxes. In the highest-tax states of Oregon, Hawaii, New Jersey, New York and California, it would be 57 percent, according to the conservative Heritage Foundation.

In the health debate, Democrats emphasize that they are not just raising taxes on the rich, but cutting spending, too, mostly for Medicare payments to doctors, hospitals and insurance companies.

Also, the Democrats say, at least they are trying to pay for the health care initiative, rather than letting the deficit balloon as the Republicans, along with President George W. Bush, did when they created the Medicare prescription drug benefit in 2003. That program will add a projected $803 billion to the national debt in the decade through 2019, according to the White House budget office.

''They charged theirs on the government's credit card,'' Rahm Emanuel, the White House chief of staff, said of the Republicans.

Even so, Mr. Obama's vow to tax only the rich is a variation ''of Bush's policy that nobody has to pay for anything,'' said Leonard Burman, a veteran of the Clinton administration Treasury and director of the nonpartisan Tax Policy Center.

''Democrats are more worried about the deficits,'' Mr. Burman added, but ''they put the burden on a tiny fraction of the population that they figure doesn't vote for them anyway.''

Mr. Burman and others recall that in the creation of Social Security and Medicare, Presidents Franklin D. Roosevelt and Lyndon B. Johnson insisted that beneficiaries contribute through payroll taxes, both to finance the programs and to give all Americans a vested interest. The same philosophy should apply to seeking universal health coverage, they say.

This idea that everything new that government provides ought to be paid for by the top 5 percent, that's a basically unstable way of governing,'' Mr. Burman said.

Mr. Obama recently dismissed concerns that taxing the rich to pay for health care would foreclose that option when he and Congress turn to deficit reduction. ''Health care reform is fiscal reform,'' he said.

''If we don't do anything on health care inflation, then we might as well close up shop when it comes to dealing with our long-term debt and deficit problems, because that's the driver of it—Medicare and Medicaid,'' Mr. Obama said.

But his no-new-tax admonition for most Americans even now complicates the behind-the-scenes work of the panel he established to recommend ways to simplify the tax code and raise more revenue.

The panel, which is led by Paul A. Volcker, a former chairman of the Federal Reserve, is to report by Dec. 4. Overhauling the code, as in 1986, generally creates winners and losers across the board; leaving 95 percent of taxpayers unscathed will not be easy.

That has already proved true in the health care deliberations. Proposals to raise about $50 billion over 10 years by taxing sugared drinks foundered partly because the levy would hit nearly everyone.

And when Congressional leaders opposed Mr. Obama's chief idea for raising revenues—limiting affluent taxpayers' deductions—his campaign vow against taxing the middle class made finding an acceptable alternative difficult.

While the president endorsed House Democrats' surtax idea, saying it ''meets my principle that it's not being shouldered by families who are already having a tough time,'' he could not embrace a bipartisan Senate proposal to tax employer-provided health benefits above a certain amount. He had criticized a similar idea as a middle-class tax during his presidential campaign.

Yet taxing at least the most generous employer-provided plans above a threshold amount would meet two elusive goals for Mr. Obama: It would raise a lot of money and, economists say, cut overall health spending by making consumers more cost-conscious.

Administration officials recently began promoting a fallback. Rather than tax individuals, it would single out insurance companies that sell ''Cadillac'' plans. David Axelrod, a White House strategist, has described the proposal in populist terms, saying it would hit ''the $40,000 policies that the head of Goldman Sachs has'' and ''not impact on the middle class.''

That position, analysts predict, cannot hold over time.

''There is no way we can pay for health care and the rest of the Obama agenda, plus get our long-term deficits under control, simply by raising taxes on the wealthy,'' said Isabel V. Sawhill, a former Clinton administration budget official. ''The middle class is going to have to contribute as well.''

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

SOTOMAYOR NOMINATION

Mr. MCCAIN. Mr. President, it is with great respect for Judge Sotomayor's qualifications that I come to the floor today to discuss her nomination to the U.S. Supreme Court. There is no doubt that Judge Sotomayor has the professional background and qualifications that one hopes for in a Supreme Court nominee. As we all know, she is a former prosecutor, served as an attorney in private practice, and spent 12 years as an appellate court judge. She is an immensely qualified candidate. And, obviously, Judge Sotomayor's life story is inspiring and compelling.