

particular fix is the enemy of good legislating. A package that will entirely please neither side, but on which both can agree, stands not only the strongest chance of passage but also the best chance of gaining acceptance from the American people.

We didn't undertake this effort because we thought it would be easy; in fact, we started working together because we knew it would be hard. Passing health reform is going to require that we take a stand against the status quo and be willing to challenge every interest group that is jealously guarding the advantages it has under the current system, because health reform isn't about protecting the current system or preserving the advantages of a few. We can't forget that we are working on life-and-death issues facing our constituents, our families, our friends and our neighbors.

It's time to stop trying to figure out what pollsters say the country wants to hear from us and focus on what the country needs from us. The American people can't afford for Congress to fail again.

#### EXHIBIT 2

[From the Wall Street Journal, Aug. 5, 2009]

#### HOW TO FIX THE HEALTH-CARE "WEDGE"

(By Arthur B. Laffer)

President Barack Obama is correct when he says that "soaring health-care costs make our current course unsustainable." Many Americans agree: 55% of respondents to a recent CNN poll think the U.S. health-care system needs a great deal of reform. Yet 70% of Americans are satisfied with their current health-care arrangements, and for good reason—they work.

Consumers are receiving quality medical care at little direct cost to themselves. This creates runaway costs that have to be addressed. But ill-advised reforms can make things much worse.

An effective cure begins with an accurate diagnosis, which is sorely lacking in most policy circles. The proposals currently on offer fail to address the fundamental driver of health-care costs: the health-care wedge.

The health-care wedge is an economic term that reflects the difference between what health-care costs the specific provider and what the patient actually pays. When health care is subsidized, no one should be surprised that people demand more of it and that the costs to produce it increase. Mr. Obama's health-care plan does nothing to address the gap between the price paid and the price received. Instead, it's like a negative tax: Costs rise and people demand more than they need.

To pay for the subsidy that the administration and Congress propose, revenues have to come from somewhere. The Obama team has come to the conclusion that we should tax small businesses, large employers and the rich. That won't work because the health-care recipients will lose their jobs as businesses can no longer afford their employees and the wealthy flee.

The bottom line is that when the government spends money on health care, the patient does not. The patient is then separated from the transaction in the sense that costs are no longer his concern. And when the patient doesn't care about costs, only those who want higher costs—like doctors and drug companies—care.

Thus, health-care reform should be based on policies that diminish the health-care wedge rather than increase it. Mr. Obama's reform principles—a public health-insurance option, mandated minimum coverage, mandated coverage of pre-existing conditions, and required purchase of health insurance—only increase the size of the wedge and thus health-care costs.

According to research I performed for the Texas Public Policy Foundation, a \$1 trillion increase in federal government health subsidies will accelerate health-care inflation, lead to continued growth in health-care expenditures, and diminish our economic growth even further. Despite these costs, some 30 million people will remain uninsured.

Implementing Mr. Obama's reforms would literally be worse than doing nothing.

The president's camp is quick to claim that his critics have not offered a viable alternative and would prefer to do nothing. But that argument couldn't be further from the truth.

Rather than expanding the role of government in the health-care market, Congress should implement a patient-centered approach to health-care reform. A patient-centered approach focuses on the patient-doctor relationship and empowers the patient and the doctor to make effective and economical choices.

A patient-centered health-care reform begins with individual ownership of insurance policies and leverages Health Savings Accounts, a low-premium, high-deductible alternative to traditional insurance that includes a tax-advantaged savings account. It allows people to purchase insurance policies across state lines and reduces the number of mandated benefits insurers are required to cover. It reallocates the majority of Medicaid spending into a simple voucher for low-income individuals to purchase their own insurance. And it reduces the cost of medical procedures by reforming tort liability laws.

By empowering patients and doctors to manage health-care decisions, a patient-centered health-care reform will control costs, improve health outcomes, and improve the overall efficiency of the health-care system.

Congress needs to focus on reform that promotes what Americans want most: immediate, measurable ways to make health care more accessible and affordable without jeopardizing quality, individual choice, or personalized care.

Because Mr. Obama has incorrectly diagnosed the problems with our health-care system, any reform based on his priorities would worsen the current inefficiencies. Americans would pay even more for lower quality and less access to care. This doesn't sound like reform we can believe in.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, how much time do we have?

The ACTING PRESIDENT pro tempore. There is 6 minutes 12 seconds remaining.

#### CASH FOR CLUNKERS

Mr. DURBIN. Madam President, later today, we are going to take up the Cash for Clunkers Program. This is an idea whose time has come. When we passed this legislation a few weeks ago, I wasn't sure. I didn't know if this would work, if we put a dollar incentive in front of American buyers and said: If you will bring in an old car or truck and trade it in on a new car or truck that is more fuel efficient, would you consider it—I didn't know if they would. We are in a recession and people don't have a lot of money.

Well, they not only considered it, they made it a wild success. In a matter of just a few days, the \$1 billion we

set aside for the program led to dramatic increases in sales in auto showrooms in Illinois and all across the Nation. I got phone calls from dealers who said: Keep it coming. Folks are finally coming into our showrooms and buying cars.

The good news is it is not only activity that is clearing the inventory in these dealerships, it also means we have more jobs. As we have more of these cars being purchased, there is more demand to rebuild that inventory at the auto dealership, and we put auto workers back to work. Also, the good news is people are buying more fuel-efficient vehicles. Eighty-three percent of the vehicles being traded in are old trucks that are not fuel efficient. Most people—the majority of them—are buying fuel-efficient cars, and that is a good change. It means there will be less fuel use, less dependence on foreign oil, and less pollution. For those who buy it, it will be a car they can operate more cheaply than the one they traded in.

We have a chance to extend this program today. It may be our last chance. A lot of amendments will be offered. Some may be good-faith amendments to improve the bill, and I fear some may be mischievous. Here is the reality. Any amendment adopted today means this program will be stopped in its tracks, and we will have to wait for the House to return in September. So for the next 4, 5, 6 weeks, nothing would happen.

Let's not lose the momentum in the Cash for Clunkers Program. This program is helping to put life back into our economy, save and create jobs, and get our automobile sector moving forward again. That is something we desperately need to come out of the recession—creating jobs and getting back on our feet and be strong again. The Cash for Clunkers Program has been a success. Let's continue it.

#### HEALTH CARE

The second issue I have relates to health care. I heard my colleague from Tennessee come forward and suggest that he is working on an alternative to health care reform. I salute him for that, and I hope he will continue that effort. I also salute the three Republican Senators who have met for weeks, if not months, trying to hammer out the differences in health care reform. It is a constructive, positive dialog. I am sure I would not agree with everything they have come to agreement on, but that is not what this is about. It doesn't have to be a bill that is perfect in my eyes; it has to be a bill that is reasonable, that will bring down the cost of health care.

I know what happened in Illinois. In 1997, health insurance premiums through employers averaged \$5,462. Just 9 years later, that number was \$11,781. If we do nothing, by 2016, it will more than double, to \$25,409.

Those who come to the floor and to town meetings and say, "Don't touch it; all you can do is make a mess of it,"

## EXECUTIVE SESSION

ignore the obvious. The current health care system is unsustainable for families and for small businesses. Fewer and fewer businesses are offering health insurance protection. More people are finding themselves without health insurance protection.

In fact, in Illinois 15 percent of the population has no insurance at all. During the course of any given year, one out of three Illinoisans have no health insurance coverage at least some time during that year. That is unacceptable. People without health insurance coverage are one diagnosis or one accident away from bankruptcy. We know more and more people are going into bankruptcy court because of health care and medical bills they cannot pay. For those who stand here and say "Don't touch it; leave it alone," it is unsustainable. It is a system headed toward disaster.

Who wants to keep the current health care system? It is the people who are making the most money in the system, the health insurance companies. They have been profitable, when many other parts of the economy have not. They are now sponsoring activities and advertisements and all sorts of things at town meetings to try to create resistance to change in health care. That is not good. It is not a constructive dialog. To think that these town meetings that are supposed to take place for a healthy, honest dialog back home have now turned into political theater. Some groups have Web sites that instruct people about how to disrupt a town meeting and embarrass a Senator or Congressman. I know that when I go to town meetings, people may disagree and be emotional, and that is OK. To think they have a coordinated effort to disrupt a town meeting. Who wants that? That is not constructive.

Let's move forward with an honest, constructive, bipartisan dialog. Three Republicans are doing that now. If we do that, we can reach a bipartisan compromise that I and the President would like to see by September. Let us come back with resolve in September to make sure there is real health care reform that brings stability to the costs that businesses and Americans pay, stability to coverage so you don't lose your health insurance because of a pre-existing condition, changing a job, caps and limits on your policy, with quality access to preventive care, wellness care, and the quality care that every American deserves.

We can do that with patient-centered health insurance reform, and we can get it done in a bipartisan fashion in September when we return.

I yield the floor.

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CONCLUSION OF MORNING  
BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NOMINATION OF SONIA SOTOMAYOR TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The bill clerk read the nomination of Sonia Sotomayor, of New York, to be an Associate Justice of the Supreme Court of the United States.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 2 p.m. will be equally divided in 1-hour alternating blocks of time, with the Republicans controlling the first hour.

The Senator from South Carolina.

Mr. DEMINT. Madam President, I do want to talk about the President's nominee to the Supreme Court, but first I wish to give a couple of comments in response to the Senator about health care because if the record be known to Americans, the preponderance of health reform legislation that has been presented over the last 5 years in the Senate has come from Republicans. The Democrats have consistently blocked any reform that would make health insurance more affordable and available to Americans. Their goal appears to be not patient-centered care but government-controlled care.

If we look back a few years, the President, along with all the Democrats, voted against interstate competition among insurance companies. It is hard to say they are not on the side of insurance companies when they vote to prevent a national market, a national competitive market that people all over the country could buy policies that are more affordable and perhaps match their needs much better than the ones they can get in their own States.

Today Americans can only buy health insurance in the States where they live. That means a few insurance companies can dominate the market. This is something we have tried to change, we have introduced, and the President has voted against it.

We have also proposed tax fairness for Americans who do not get their health insurance at work. The other side seldom discusses the fact that when you get your insurance at work, you get pretty big tax breaks. The companies that provide that health insurance do not have to pay taxes on it. They can deduct it. It is a business expense. And the employees do not have to pay income tax on the benefits. It is an equivalent benefit over \$3,000.

The bills we Republicans have introduced will give health care vouchers to every American. Every family would get \$5,000 a year to buy health insurance if they do not get their health insurance at work. Every individual would get \$2,000.

In addition, there would be some lawsuit abuse reform and some block grants to States to make sure people who are uninsurable, who have pre-existing conditions, can buy affordable insurance.

The Heritage Foundation says one of the Republican plans would have 22 million Americans insured within 5 years. They are plans that work. But, unfortunately, the other side will not even discuss plans that do not have more government control involved with them.

What we can do is make what is working work better. We do not need to replace it with what is not working. One of the reasons health insurance is more expensive today—a third more expensive—is that the government programs of Medicare and Medicaid do not pay their fair share, and those costs are shifted on to employers and individuals who have private insurance.

We do not need to expand the part that is broken in health care. We certainly do not need to expand a cash-for-clunkers type of health care system for America.

I am here today to talk about the President's nominee to the Supreme Court, Sonia Sotomayor. I commend my Republican colleagues, particularly Senator JEFF SESSIONS, for conducting a very respectful and civil hearing process for the nominee. This is something we have not seen in a number of years here. They were respectful toward her. Even those who disagree with her judicial philosophy showed courtesy and respect during the hearings, and it is something I very much appreciate.

Our goal through this process has not been to block this nomination and to stop her from going to the Supreme Court. The votes have never been there to do that. What we have been trying to show is a pattern by the Obama administration and the Democratic majority of moving toward more and more government control in all areas of our lives. We see it in the stimulus plan, that instead of leaving money in the private sector, we take it away and spend it on programs such as turtle tunnels and other kinds of wasteful spending all across the country—government spending.

We are trying to manage the private economy. We see it in cash for clunkers where we create an economic earmark for one sliver of our economy. At the same time, in this health care legislation, we are talking about adding taxes to the small businesses that create 70 percent of the jobs in this country.

We are benefiting a few at the expense of many. This is economic central planning. It is a concept that has failed throughout history. Yet we are trying again.

What we see in the President's nominee to the Supreme Court is this belief that our Constitution is inadequate, that we need to have judges on our courts, Justices on the Supreme Court, who add to it.