

at the end of this year and he is saying we made it harder for States to pay their bills. At the time the stimulus package was passed, everyone said it was one-time funding. All of us knew that Medicaid costs were overwhelming the States. Still, Congress went ahead—the majority, in any event—and increased the federal match for Medicaid, and required States not to change eligibility requirements. Thus they created this financial cliff at the end of the year which will cause the States' share for Medicaid spending to increase from an average of 34 percent to 43 percent, a net increase of \$39 billion in costs for 2011. We are getting close to the \$50 billion we are being asked to bail States out for.

Let me say a word about teacher salaries. The first question is, where is the rest of the money going to go? The request, as it has been talked about, says this will save 100,000, maybe 300,000 teacher jobs. We are supposed to appropriate \$23 billion for that purpose.

At \$100,000 that works out to about \$230,000 per teacher job saved. If we are saving 300,000 teacher jobs with that \$23 billion, that works out to \$76,667 per teacher job saved. The average national teacher's salary is \$46,752. Where does the rest of the money go?

At the beginning of this administration there was a huge increase in education funds; \$97 billion over 2 years for elementary and secondary education and \$53.6 billion for the State Fiscal Stabilization fund. We were assured this was one-time funding. In April 2009, the Department of Education itself said in its guidance to the States on how to spend the money:

The [funds are] expected to be a one-time infusion of substantial new resources. These funds should be invested in ways that do not result in unsustainable continuing commitments after the funding expires.

What we could have said is, we don't have any more money either, States. We just print it up here. So don't expect us to send you anymore.

The U.S. Department of Education helpfully suggested what some of those one-time expenditures might be—making improvements in teacher effectiveness; establishing pre-K-to-college-and-career data systems; making progress toward rigorous college- and career-ready standards; providing targeted, selective support; and effective interventions for the lowest performing schools. In other words, the States and schools were told: Don't spend this money on continuing programs. Spend it once.

Our Governor, a Democratic Governor in Tennessee, got the message. Governor Bredesen said in his State of the Union Address in 2009:

Please let me make it clear that no proposed version of the stimulus is any panacea or silver bullet; substantial cuts are still needed under any circumstances. Furthermore, it is vital to remember that this stimulus money is one-time funding.

The ACTING PRESIDENT pro tempore. The 10 minutes of the Senator has expired.

Mr. ALEXANDER. I thank the Chair. I see none of my colleagues here.

The ACTING PRESIDENT pro tempore. Senator BARRASSO from Wyoming is waiting.

Mr. ALEXANDER. I ask for another 60 seconds to conclude my remarks. I thank the Chair.

When we think about the funding, we need to remember the best things for us to do. They are to stop imposing health care mandates on States, which make it impossible for them to pay their bills; and to properly support public education, especially public higher education, which is going to take a terrible blow because of the passage of the health care bill. Thanks to the health care bill, tuition payments for students are going to rise.

Second, we should recognize that the stimulus money passed last year was one-time funding. We created this financial cliff and now we have an unprecedented level of debt in the Federal Government. We do not have \$23 billion lying around to send to the States.

Whether we are sending \$230,000 per teaching job, \$76,000 per teaching job, or scaling it back and saying we are only going to send the national average, which is \$46,000, the question still remains: From whose grandchildren will we borrow the money?

We need to reduce the growth of the Federal debt. We should not be bailing out States with another \$50 billion.

I thank the Senator from Wyoming and I yield the floor.

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

Mr. BARRASSO. Mr. President, could you please inform me how much time is remaining in morning business?

The ACTING PRESIDENT pro tempore. There is 17 minutes on the Republican side.

HEALTH CARE

Mr. BARRASSO. Mr. President, I come to the floor today as someone who has practiced medicine in the State of Wyoming since 1983, taking care of families across the great State of Wyoming as an orthopedic surgeon and also as a medical director of the Wyoming Health Care, which is a program to offer low-cost medical screenings, health screenings to help people; early detection, because we know that is a way to keep down the cost of care—to help them find problems before they get too far progressed so we can get effective treatments.

This is a very successful program. Often doctors are asked for their opinions on issues. Then, if a patient has a question, they ask for a second opinion from a second physician.

Well, I come to the floor today to offer my second opinion on this health care bill. I have been doing this week after week, as we have had a year-long debate and discussion about the health care bill that has now been signed into law. I come to the floor because it

seems that every week, every week since the bill became law, there has been a new revelation, a new unintended consequence that the people of America look at and say: This is a bill, now a law, that was not passed for me. It is to help someone else.

The promises the American people heard when the bill was being debated and discussed, we are now finding that those promises have been broken. Again this week one of those major promises, fundamental behind the health care law, has been broken. The American people are concerned and distressed because it affects them personally. They believe they were misled.

The goal of the health care legislation last year was to lower the cost of health care. There is agreement all across the country we need to do that; we need to lower the cost of care, to improve quality of care. Absolutely. It is in the best interest of all Americans if we can improve the quality of care; then, of course, to increase access to care. The more we can do to allow more people in this country to have access to care, the better it is.

Lower cost, improved quality, improved access. Well, that is not what this Senate Chamber passed because I believe the bill that was passed is clearly not going to lower cost, and the Congressional Budget Office agrees. It is not going to improve quality, and it is not going to improve access, as we see from statements from the Secretary of Health and Human Services about the shortage of primary care providers, the shortage of physicians and nurse practitioners and others to help. So I continue to believe the law we now have passed is bad for patients, bad for payers, the people who are going to pay the health care bill of this country, and bad for providers, the nurses and doctors who take care of those patients.

I believe the bill fundamentally is going to result in higher costs for patients, less access for care, and unsustainable spending. The Speaker of the House, NANCY PELOSI, said: You are going to have to first pass the bill to find out what is in it. Once again, this past week, we have learned about something new that is in the health care law that many Americans have found surprising.

I would like to contrast a speech President Obama gave 1 year ago this week, 1 year ago yesterday, at the American Medical Association meeting in Chicago. I would like to quote from the speech given by the President, and then contrast it to regulations that have been sent out earlier this week. What a difference a year makes. President Obama said:

So let me begin by saying this—

This was a year ago—

I know that there are millions of Americans who are content with their health care coverage. They like their plan and they value their relationship with their doctor.

He went on to say:

And that means that no matter how we reform health care we will keep this promise.

If you like your doctor, you will be able to keep your doctor. Period.

He went on to say:

If you like your health care plan, you will be able to keep your health care plan. Period. No one will take it away no matter what.

Well, those are very reassuring words to the 170 million people in this country who get their health insurance coverage through their employer at work. There were 170 million people reassured 1 year ago by the words of the President of the United States that if they like what they have, they can keep it.

This is the line that the President has continued to repeat. Most recently he gave the same reassurance to the senior citizens of this country in a townhall meeting he had just a little over a week ago. But what we are seeing now, instead of allowing Americans to keep their doctors and their health care plans, is another broken promise, a broken promise to the American people.

On Friday of last week, the Associated Press reported that 51 percent, over half of all Americans, a majority of those 170 million who get their health insurance through work, will no longer necessarily be able to keep the health insurance they have.

In the 25 years or so that I have practiced medicine, I know how important it is, having worked with patients, worked with people, what happens when they lose the coverage or have to change their coverage. It is very distressing. Sometimes it can be disorienting to them as they learn what new coverage they have, what they lost. So people who felt reassured last year by the President's comments are now in a situation where 51 percent of them are going to lose the coverage they have.

The Washington Post this week, Tuesday, June 15: The administration estimated that by 2013, health plans covering as many as 69 percent of employees could lose protected status. For small employers, the small businesses of this country, the total could be as high as 80 percent.

I mean, could that really be true? I find it astonishing. We have had calls to our office: Is that really true? We have talked to patients and people that I have taken care of because I have been back in Wyoming this past weekend and ran into a number of former patients of mine. They said: Is that really going to happen?

Let's see what the rules are that came out. These are the rules that came out on Monday. I mean, it is interesting to get rules on health care, and what are the first two lines? Department of the Treasury. Internal Revenue Service.

The Internal Revenue Service is writing the rules and regulations dealing with the health care bill. It goes on with the Department of Labor, the Department of Health and Human Services. This is titled, "Interim Final Rules For Group Health Plans And Health Insurance Coverage."

This is 121 pages. I am not going to go through all of it, but I would like to call your attention to page 54. On page 54 there is a table, and the table is called "Estimates of the Cumulative Percentage of Employer Plans Relinquishing," having to give up, "Their Grandfathered Status."

What it means is the percentage of employer plans of people who have the insurance they like they are not going to be able to keep.

They have a low-end estimate, a mid-range estimate and a high-end estimate of all of the employer plans in the country. It covers 170 million Americans. It says by the year 2013, just a few years from now, 51 percent, 51 percent of Americans will lose what they have now. It talks about the high estimate for the small employer plans, 80 percent.

So how can that be true? So 80 percent of small employers—that is the lifeblood of our economy, and we are at a point in this country where we have unemployment at 9.7 percent, and small business is the engine, the engine that grows the economy. Seventy percent of all new jobs in this country are created by small businesses. Yet for people who work in small businesses, it looks like up to 80 percent of them, over the next couple of years, are not going to be able to keep the health insurance they have now.

Why? Because the rules and regulations that have come out related to the law that has now been passed, in spite of the President's promise right here behind us—you will be able to keep your doctor, period; you will be able to keep your health care plan, period—the American people are finding that those words, those words, are not being held out in what was passed into law and the regulations that have now been written.

Headline, Wednesday, June 16, today, national newspaper: "So much for 'Keeping Your Plan.'"

Now, actually there are some people who can keep their plans—very few.

Headline, "Union Contract Can Exempt Plans From ObamaCare." So you do not get to necessarily keep your plan, it says, unless a union negotiated your coverage. The administration has granted a special exemption to those, and apparently only those, health care plans, a special exemption offered by the administration, according to this article, for those whose plans have been negotiated by the unions.

You do not have to go very far. All you need to do is open a newspaper. This is on Capitol Hill just the other day, Tuesday, June 8. It says, talking about health care, there is a picture of a doctor with an eye chart: "Comprehensive, but Not for All."

"Health reform ban on annual limits may end up hurting lower wage workers." Well, I thought that the whole idea behind this was to help additional workers, to help additional workers get coverage, get care. First paragraph:

Part of the health care overhaul due to kick in this September, could end up strip-

ping more than a million people of their insurance coverage, violating a key goal of President Barack Obama's reforms.

There it is in black and white: "Violating a key goal of President Barack Obama's reforms." These are identifiable victims of ObamaCare, losers under ObamaCare. Promises made and promises broken.

What about the President's promise on the cost of care, bending the cost curve down? Well, yesterday, in *The Hill*:

Report projects a rise of 9 percent in employers' health costs in 2011.

But was it not Obama who said his legislation was going to actually allow Americans to have a lowering of their premiums by \$2,500 per year per family? Well, how does that work with the projected rise in cost? So, once again, the American people heard one thing and now they are being delivered something very different.

That is why I come to the Senate floor today—to say it is time to repeal this legislation and replace it, replace this legislation with legislation that delivers more personal responsibility and more opportunities for individual patients, a patient-centered health care bill, a bill that allows Americans to buy insurance across State lines. We need a bill that will give more competition and will allow the costs to come down, that gives people who own their own health insurance an opportunity to get the same tax relief big companies get. That is important. That will help people.

How about a bill that includes a provision to give individual incentives to people who take responsibility for their own health care and their own health, do things like the people who come to the Wyoming Health Fairs, early detection, early treatment.

We know, and I have seen this in my years of practicing medicine, about half of all of the money we spend in this country on health care is on just 5 percent of the people. If we can focus on those 5 percent and help them with healthy lifestyles and good choices, we can get down the cost of their care.

Then we need a bill that deals with lawsuit abuse. That will help lower the amount of defensive medicine practiced and help lower the cost of care, plus one that allows small businesses to join together and then shop much more effectively to buy a lower cost health insurance plan.

Well, you can imagine what is happening right now in small businesses across America, as I have just brought to the attention of the Senate. When 80 percent, up to 80 percent of people with small business health plans who are getting their insurance that way, according to the new regulations put out by the Internal Revenue Service, as well as the Department of Health and Human Services, up to 80 percent are not going to be able to keep the coverage they now have and now enjoy under their current plans come the year 2013.

Those are the things that will make a difference. That is why I come to the floor today. I offer my second opinion about health care law, and now it is the law that I think is going to end up—and the American people understand this, and they see through it—is going to end up being bad for patients who need care, bad for payers, people paying for their health care costs, and the taxpayers of this country, as well as bad for providers, the nurses and the doctors and the hospitals who take care of those patients.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

NOMINATION OF ELENA KAGAN

Ms. KLOBUCHAR. Mr. President, I am pleased to come to the floor today with a few of my women colleagues to discuss the President's nomination of Solicitor General Elena Kagan to be an Associate Justice of the Supreme Court. I am a member of the Judiciary Committee. We are looking forward to the hearings coming up in a few weeks. We hope the country is watching because this is a very important job and Ms. Kagan is a very impressive person.

With that, I turn to the Senator from Michigan, Ms. STABENOW.

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

Ms. STABENOW. Mr. President, I thank the Senator from Minnesota.

We are here to talk about President Obama's nomination of Elena Kagan. I will come to the floor at a later point to respond to my friend from Wyoming with a different view about health care reform. We have a vote in just a few moments, a very important vote as to whether to support the ability of States, in these difficult times, to be able to continue health care for people who are out of work and for seniors who are in nursing homes, low-income seniors who find themselves caught in the economic crunch. In Michigan, there are 6 individuals out of every 100 who are on Medicaid now or who need to be on Medicaid. The upcoming vote will determine whether we place a value on health care, place a value on seniors in nursing homes and people who, because they have lost a job or because of some other situation in this economy, find themselves without health care. I hope colleagues who express concern about people having access to health care will join us in voting yes.

I thank the Senator from Minnesota for organizing and bringing us to the floor. I join her in speaking in favor of the President's nomination of Elena Kagan to be the next Justice of the U.S. Supreme Court.

She grew up in a family like so many in Michigan, with parents who worked hard for a living so they could provide for their children. Her mom was a teacher. Her dad was a tenants lawyer in New York City. She saw firsthand

the effects of laws and court decisions on the everyday lives of Americans. Throughout her distinguished career, she has brought the lessons she learned from her parents—in her words, “service, character and integrity”—to every role she has had.

She took those lessons with her to the White House, where she worked with Democrats and Republicans to forge commonsense solutions to issues such as restricting tobacco companies from targeting ads to children.

She took those lessons with her to Harvard, where she became a successful and beloved professor. As dean, she worked to engage her students in service and to honor those who have served. Every year, she invited all of the military veterans on campus to her home for a Veterans Day dinner. She reached out to students from all across the political spectrum and proved to them one-on-one that she was a smart and pragmatic leader. Very conservative law students at Harvard tend to join the Federalist Society, while progressive law students are more likely to join the American Constitution Society. The two groups disagree on almost everything. Yet both groups sent letters to the Judiciary Committee supporting Elena Kagan's nomination as Solicitor General. That is rare in politics and is proof that Elena Kagan is respected for her fairness and impartiality.

Besides her parents, perhaps the biggest influence in her life was her one-time boss and mentor Justice Thurgood Marshall, who was also the Solicitor General before becoming a Supreme Court Justice. She admired his ability, in her words, to understand the way law works “in practice, as well as in the books—of the way in which law acted on people's lives.”

In private practice, Elena Kagan represented clients in litigation. Today, she represents all of us as the people's lawyer, the Solicitor General of the United States. Her job every day is to represent her clients, the people of our great country, before the U.S. Supreme Court. As a Justice, she will continue to represent the people. That is why I urge my colleagues today to join with us in confirming her nomination without delay.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. Mr. President, I am pleased to join my colleagues, Senators STABENOW and KLOBUCHAR, in supporting the nomination of Elena Kagan to be an Associate Justice of the Supreme Court. However, before addressing the nomination of Elena Kagan, I wish to echo the remarks of Senator STABENOW about the need to look at the legislation that is going to come before us in a few minutes.

My colleague, Senator BARRASSO, talked about wanting to help those people who are most in need of health care. One of the best ways we can do

that is to pass the legislation pending before this body which includes an extension of Medicaid benefits, which is so important to States and to the people who are most in need, who have the least ability to get health care. I hope that as our colleagues are thinking about how they can support health care for Americans, they will support this legislation and make sure we extend Medicaid benefits for people throughout the States.

Turning to the Elena Kagan nomination, I am extremely pleased that President Obama has selected a woman with such impressive and unique credentials to serve on the Nation's highest Court. I had the good fortune to meet Solicitor General Kagan a number of years ago when both of us were at Harvard. I was at the Kennedy School as the director of its Institute of Politics, and she had just become dean of the Harvard Law School. It didn't take her very long to get a reputation there as someone who was loved by the students and the faculty, who was able to get everyone to work together. It comes as no surprise to me that she has continued her impressive accomplishments.

My favorable impression of Elena Kagan was confirmed after a recent meeting with her in my Senate office, spending more time really looking at what her record has been with the law. I wish to focus my remarks this morning on Elena Kagan's record that has prepared her to be a Justice.

A number of my colleagues from across the aisle have implied or stated directly that the Solicitor General lacks sufficient range of professional experience. A number of Senators are concerned that Elena Kagan does not have judicial experience. To address this point, it is worth noting that 41 of the Court's 111 Justices have joined the Court without any previous experience as a judge. Among these 41 are some of the most notable jurists of the last century: Justices Louis Brandeis, Felix Frankfurter, William Douglas, Byron White, and Lewis Powell. Chief Justices Harlan Stone, Earl Warren, and William Rehnquist were also chosen for the Court without prior judicial experience. The Presidents who nominated these Justices and the Senators who confirmed them were right to recognize that experiences other than being a judge can prepare one to serve on the Supreme Court with distinction. Elena Kagan certainly has had that experience. She has traveled a path of extraordinary accomplishment. I am confident she will continue that trend once she is elevated to the bench.

With more than 24 years of legal experience in a range of settings, she will bring a distinct perspective to judging that will serve both the Court and Americans well. Without a doubt, Ms. Kagan has been a lifelong student of the Supreme Court. As we heard from Senator STABENOW, she began her career as a clerk in the chambers of two highly regarded jurists, including the