

## HEALTH CARE AND JOB CREATION

Mr. BLUNT. Madam President, next Wednesday marks the first anniversary of the day President Obama signed the bill into law that, in my opinion and in the opinion of most Americans, is the greatest involvement in our Nation's health care system in history.

What we see, as that law is discussed, as it is challenged in court, is a bill that was signed into law that was full of problems when it was signed into law. It was a bill full of constitutional questions, and, in fact, while some courts have said it may be constitutional, others have said it is not.

It was a bill where the courts say the Federal Government cannot make you buy a commercially available product, then the same people who were saying a year ago that this requirement is not a tax are saying: Maybe it is a tax. Maybe the Constitution allows us to define that particular purpose as a tax on the American people.

But a year ago, they were saying: This is not a tax at all. This is definitely not a tax. There is no way this could ever be interpreted as a tax.

But when courts say you cannot do this the way this bill does it, suddenly they try to reinvent what the law was designed to do.

One of the reasons this bill has so many of these problems is there was a rush to get a bill into law, a bill with more government control of health care into law, a bill that could not have passed the Senate the day the President signed it into law. A bill that was full of concerns, a bill that the Senate voted on never believing that it actually would become law but would create a vehicle to become law, became the only option the House leaders thought was available to them, and they passed it. They passed it without the kind of process that would have produced a law that could stand a constitutional challenge, produced a law to which Americans would be more responsive.

While I believe the law was misguided in its concept, more importantly, it was put together in what I think will be seen as the worst possible way—a rush to judgment, to get a law on the books. Now the people who voted for the law are saying things like: There may be a better way than an individual requirement that everybody buy a specified, defined insurance policy. Not all the people are saying that but some are. They are saying: Maybe we ought to look for that better way. The time to look for that better way was before the bill was signed into law, not after it was signed into law. Even the White House is saying: Certainly let's work together to change this. This is headed in fundamentally so much the wrong direction, changing it would not be the best option.

Already in the Senate we have voted not to vote on a repeal of this law that would allow us to replace it with better things. Unless those votes change, that

will not happen this year. But the view that Americans have of this law is not likely to change either. I certainly do not believe government has the authority in the Constitution to penalize people for not buying a commercially available product.

Sometimes people say that the States require that under their constitution, to buy auto insurance if you drive a car. No. 1, that is a State decision, and No. 2, they do not require you to drive a car. You don't have to have that particular product if you do not make that decision. This gives you no options but to pay a penalty or to do what the government says you have to do.

During the debate surrounding this bill and immediately following the enactment of the bill, the American people began to tell us that this was not the approach they wanted. In Missouri, where I am from, the first place that had an issue on the ballot where voters could speak about whether they wanted to be part of this new concept of more government control of health care, 71 percent of them said they did not want to be part of it. That was in a primary election. Hundreds of thousands of people voted and 71 percent of them said: We do not want to go in this direction.

Missouri is a State that generally is pretty reflective of the country in our elections, in our economy, in how our population comes together. Madam President, 71 percent of them said: Let's not do this; let's do something besides this. They had a sense that this was a misguided plan that put government between them and their doctors, that had as one of its major tenets that the government would describe a certain regimen of care that would have to be followed for doctors and hospitals to be reimbursed. Missourians by and large believe this significantly changes—some would say implodes—our current health care system.

To make it worse, this law cuts Medicare by \$500 billion, not to save Medicare or improve Medicare, but it cuts Medicare by \$500 billion so we could start another health care program. This makes so little sense as we look at Medicare—one of our major challenges as the demographics of the population change. Medicare is one of the areas where we know that in a handful of years, Medicare will face a generation of great challenge. We look for savings in Medicare not to save Medicare but to start a new program. That would be totally unacceptable anywhere except Washington, DC. It makes as little sense to people as the idea that we could come up with a new \$1 trillion program over a handful of years and say that is going to save money. Nobody believes that.

When you look at the greater concept of what this law will do, if it is ever implemented, to change the relationship of people and their government, I can't think of anything, besides the government taking over the economy,

that actually has greater potential to change that relationship than the government having more control of your health care. What more controlling element could the government look to than your health care and your family's health care to make sure that you never got on the wrong side of that government? It does change that relationship.

It also creates real uncertainty in what should be the No. 1 goal in America today: private sector job creation. If a year ago the President would have signed bills into law that encouraged private sector job creation or created more certainty about our health care costs, about our utility bills, about our taxes, about regulation, rather than signing this bill into law, I believe we would be much further down the road toward seeing private sector jobs, jobs that create taxpayers that help government provide the services only government can provide. We would be much further down that road.

The very clear message I and others heard all over the country in the last year was, we do not want to create these jobs with all of these issues out there not yet really decided and if they are decided, likely to be decided in a way that makes that job-creating decision less of a good situation than it would have been otherwise.

Cap and trade, in the middle of the country, in Missouri, the sixth most dependent State on coal for its utilities—the estimate was that it would double the utility bills in a dozen years. What is the job-creation message there?

We are exactly where we were 2 years ago on the tax question because just a few months ago the President signed a bill that extended current tax policies but only for 2 years. So we are no further down the road on that question than we were 2 years ago today.

The President calls for regulations that make sense. I join him in that. But we see none of that coming from the regulating authorities right now. The clear message people had was, they would like the government to create more certainty in the areas the government controls so they can decide whether they want to take the certain risk you always have when you create a job.

I was in northwest Missouri not too long after this bill was signed into law 1 year ago and very well remember a conversation I had with someone whose business was going well. In fact, he said: I have 47 employees. You will remember the bill creates a threshold of 50, that you have different kinds of obligations and regulations once you get to 50—over 50 employees—than you had before that. He said: I have 47 employees. I need to hire six more people right now. But I have looked at this health care law, my accountants have looked at this health care law, and we are not going to get 1 employee closer to 50 than we are right now.

So there are six jobs that did not get created. His view of what to do about

his current situation was, I am going to pay overtime until I can figure out what I am doing that is not making much money or, in fact, maybe even losing a little money, and I am going to quit doing that. I am going to be sure we get back to where we are truly a 47-employee business again, instead of what should be a 53-employee business.

Many employers I talked to said: We are not going to hire full-time employees. We think we can get our job done with more part-time employees who do not force us into the environment under this law, where the government comes in and says: You have to pay a penalty or you have to offer an unknown insurance policy that will be created by some group created by the Congress that says what everybody's insurance policy has to look like.

"One size fits all" almost never fits anybody, and it will not fit anybody in this insurance plan that this bill anticipates and mandates. What you need is more competition, more choice, real, sustainable understanding that the marketplace works. On the job creation front, private sector job creation will not occur until we do the things we need to do that create more certainty in the job-creating marketplace: letting families keep more of what they earn, economic incentives for small business, government that does not constantly talk about how it can raise all the costs that you have as the underlying costs of the business you create.

While I would be voting—if we would have a chance to repeal this bill—I would also be working hard to replace it with better solutions. Maybe the only good thing about this health care bill is, it requires us to either go down a road most Americans now think is the wrong direction or to truly tackle these big questions involving health care, things such as small business health care plans—at one time they were called association health care plans—where you could find some bigger group to affiliate with if you are an individual or a business and get your insurance that way rather than trying to get it as an individual.

Medical liability reform is a concept I have sponsored legislation on and others have, over and over again, to see it pass the House of Representatives and not get voted on seven times in the Senate. The medical liability bill last year, the estimate was it would save \$56 billion for health care under current government programs and at least that much more in health care costs for Americans who pay for their own health care or have their own private insurance. That is over \$100 billion in savings at a time when we need to be looking for every \$100 billion in savings we can find. Unfortunately, in our current situation, it takes several of those \$100 billion in savings—16 of them, in fact—to just get the budget back in balance. We cannot afford to not do things that would save \$100 billion.

Risk pools. Nobody wants people not to be able to get insurance because of preexisting conditions. But they are not moving in the direction this bill would allow them to move. In fact, the people who have signed up for the concept the bill put out there of how to open risk pools, I think, is about 6 percent of the anticipated number. When the target is 6 percent of what you thought the law would encourage people to do, obviously there is something wrong with the way that is put together. It is only 94 percent short of the estimate of people who would rally to risk pools that allowed for access if you have a preexisting condition. There are better ways to expand these risk pools that are better than telling people: No, you will get insurance the same way everybody else gets it, for the same thing they pay for it, anytime you need it, which is what the bill says. You will have to pay a penalty, in the interim, that is much less than it would have cost you to have insurance. People will figure that out and pretty quickly.

On what may have been that same visit with the employer in Rockport, MO, I was talking to a hospital in that area right after this bill passed. They said: I guess, if this bill goes into law, we will put the insurance application forms in the ambulance. That way you can get your insurance on the way to the hospital. Because, after all, under the bill, you would pay 100 percent of what everybody else was paying. So why would you want to pay 100 percent until the day you knew you needed it? This is a badly thought-out concept. Expanding risk pools in other ways and helping fund and encourage those risk pools would have been the better way to do that.

Being sure families still make family decisions about health care instead of being told: No, there is only one option your health care plan that is defined by the government will pay for; encouraging coverage available in other States, buying this product across State lines. There is no reason not to have a health care marketplace. It does not just have to be buying the product in the half dozen States that touch Missouri, the six or seven States that touch Missouri. There is no reason it cannot be bought in a marketplace that is the national marketplace. Competition produces better choices, and it also produces more choices so you can look at the health care plan that is right for your family or you as an individual, rather than the health care plan some newly created board and agency said had to be the health care plan for everyone to meet the new Federal Government standards.

Tax equity. If you buy a health care plan on your own, you should do that with pretax dollars, just like the biggest corporations in America buy health care for their employees with pretax dollars.

More transparency of how health care works. I would like to know, if I

am on the way to get a health care procedure, I would like to know, before I leave to do that, what do people charge and what are their results. Most trips for health care are not to the emergency room, they are planned trips for health care. Once you are in the car, if it means driving another 20 minutes or 1 hour and 20 minutes to get to the place that does a better job for less money, I think most Americans would do that.

We know this. These factors are generally known. I remember a study just 1 year or so ago that was checking to see the survival rates for inhospital heart attacks based on the response time. That information is all available. At this point, it is available anonymously. But if it is available anonymously, it would also be available specifically.

More transparency in the system. How do you go to the place to get the best results or, if the results are the same, how do you go to the place that gets the best results for the better cost? When employers are telling us they are not hiring because of the uncertainty created by this law, when courts are ruling the law is unconstitutional or even when courts disagree on this topic—when some courts think it is unconstitutional and some think it is—when voters are overwhelmingly rejecting it every opportunity they have had at the polling place to vote on it, something is wrong with the direction we are headed.

Americans deserve a plan where the people are still in the driver's seat, where the people are bigger than the government, where the people are making decisions for themselves and their families about lots of things but particularly about health care.

I am working and will keep working to repeal this bill and replace it with policies that make more sense, policies that move us toward more competition, more transparency, and better health care. The anniversary of this signing next week would be better spent if we were all here next week trying to come up with policies that make health care sense, that make economic sense, that meet the constitutional standard, and still keep people in charge of these important life-sustaining, health-sustaining decisions.

I yield the floor and suggest 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. HOEVEN. Madam 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. HOEVEN. Madam President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

## ENERGY PRODUCTION

Mr. HOEVEN. Madam President, I would like to speak this morning on an issue that I believe is of great importance to our economy and to our national security. In recent weeks, we have seen political turmoil in Libya and Egypt and Tunisia and throughout the Middle East and other North African nations.

Only time will tell what the outcome of these historic events will be. What is clear, however, is that there is, once again, disruption in the world's petroleum supplies as a result of the turmoil in this region of the world, and American consumers and businesses are feeling the brunt of it.

In the United States, we have seen the price of gasoline and other petroleum products increase dramatically. The pain is particularly sharp at the pump.

Over the last few weeks, retail gasoline prices have risen to more than \$3.50 a gallon. They are expected to rise to more than \$3.70 a gallon during the peak summer driving season and, of course, they could go substantially higher. This is a reflection of what is happening in the crude oil commodity markets around the world. In fact, the Energy Information Administration's latest forecast of the average West Texas spot price for the remainder of this year increased from \$93 a barrel to more than \$100 a barrel. The EIA expects continued tightening of world oil markets in the next 2 years in light of the events in North Africa and in the Middle East.

For example, in Libya it is widely reported that much of the country's 1.6 million barrels a day of total production in 2010 has been largely shut down. It is unclear how long this will last. However, the reality is that the problem is not a matter of current supply. Prices are going up not because of lack of supply but because of concerns in the market about future supplies. Therefore, to address this problem, we must increase domestic production. We must produce more American energy, and we can do it.

Furthermore, taking steps now to create a legal, tax, and regulatory environment that will stimulate more domestic production will help take pressure off prices even before that supply comes on line, as markets anticipate more production.

Of course, the opposite scenario exists today as markets anticipate less supply from the Middle East and they do not see the commitment domestically to offset that reduction in supply. We must change that perception by taking real action to encourage production here at home. Stalled energy projects and impediments to domestic oil production in our own country are costing our Nation's economy billions of dollars and millions of jobs.

A study released last week by the U.S. Chamber of Commerce says 351 energy projects, both renewable and traditional, are stalled, at a cost of \$1.1

trillion to the American economy and nearly 2 million jobs for the American people. When we combine disruptions in foreign sources of production and a domestic market hobbled by bureaucracy and delays, the result is higher energy prices, a sluggish economy, and fewer jobs. That is exactly what we see happening. That should be a cause of huge concern, but it should also be a huge call to action. There is a path out of this for America, a path we in my home State of North Dakota successfully followed starting a decade ago by building a comprehensive energy plan called Empower North Dakota.

Through Empower North Dakota, we worked to create a business climate that incentivized energy companies across all industry sectors, including the oil industry, to invest in our State. We created the kind of legal, tax, and regulatory certainty that attracted capital, expertise, and jobs to North Dakota. In fact, when we started 10 years ago, oil companies had either left or they were leaving the oil-producing region in our State, the Williston Basin. Why was that?

First, they were getting better returns elsewhere. Technology was lacking to produce oil economically from new formations. Companies were going to other places in the world where they could extract oil less expensively. Second, data on confirmed reserves was lacking, and the technology to produce oil from shale wasn't sufficiently developed. Third, the workforce was aging, and we lacked the training and education for new workers. And fourth, transport constraints limited production. In other words, there were better places for the industry to invest shareholder dollars and earn a return.

To turn that around, we built a climate for investment. We established an oil and gas research fund paid for by the industry. We put tax incentives in place. We initiated studies of the Bakken formation at the heart of the Williston Basin through the North Dakota Geological Survey. That was followed by a U.S. Geological Survey study. I have requested another USGS study I believe will demonstrate that we have billions more in recoverable oil reserves in our State.

We also improved infrastructure. We created a pipeline authority to expand transportation capacity, and we established a center of excellence for petroleum safety and technology at Williston State College to train workers in oilfield drilling and recovery methods. Before that we had to send workers to Wyoming or Oklahoma and other places for training and education. Now we do it in our State.

In response, our enhanced business environment drew investment capital, technology, and ingenuity to Williston Basin which unlocked the potential of North Dakota's oil patch. We took full advantage of the Bakken and Three Forks, which are deep shale formations with billions of barrels of oil locked away in porous rock, by using innova-

tive, unconventional technologies and with good environmental stewardship.

To release the oil, companies in North Dakota use hydraulic fracturing which involves pumping water under pressure deep into the Earth to crack the shale and release the crude oil. The water is then recycled or deposited safely back into the ground 2 miles down, well below, far below the water table. Companies also use directional drilling which enables drilling rigs to drill one vertical bore and multiple horizontal bores deep in the ground, producing more oil with a smaller footprint and, again, better environmental stewardship.

As a result, this year North Dakota will produce more than 120 million barrels of oil. That number is growing dramatically. This is sweet crude oil.

Since 2006, we have grown to become the fourth largest oil-producing State among all 50 States in the Union, passing States such as Oklahoma and most recently Louisiana. Bear in mind that in North Dakota the measures we took were not about government spending. They were about creating an environment for private investment that generated revenues for the State, broadened the economic base, and actually enabled us to reduce taxes. This isn't a Republican or a Democratic issue. It is an American issue, and it will take both parties to fix it. That is why I am cosponsoring a bill with Senator ROBERTS that actually works with a directive from President Obama.

The Regulatory Responsibility for Our Economy Act will give the force of law to a Presidential Executive order issued in January. The order proposes to review rules that may be outmoded, ineffective, or excessively burdensome, and to modify, streamline, or repeal them. We are all committed to good environmental stewardship and effective consumer protections. But the President's order acknowledges that Federal regulations are hindering the Nation's economic growth and our ability to create jobs. The law we are proposing, if passed, will make sure we take a clear-eyed look at our rules and help to bring regulatory and legal certainty to the markets.

While we are working to produce more oil in America, with the right approach, with the approach I am describing, we can also enlist the help of our friend and close ally to the north, Canada. To do that, for example, we need to complete some very ambitious projects that need permitting and approval. One example is the Keystone XL pipeline. This \$12 billion, high-tech transcontinental petroleum pipeline is designed to carry crude from the Canadian oil sands in Alberta to the Gulf of Mexico. As it passes through the Midwest, an onramp will receive midwestern sweet crude from States such as North Dakota and Montana to mix with the heavier Canadian crude and send it to refineries that will turn it into gasoline and diesel fuel in America. With no overseas involvement, this