

improved by the Obama administration provides strong protection for our Nation's waters and restores the ability of Federal agencies to enforce the Clean Water Act. I also wish to underscore the fact that the guidance reflects the longstanding agricultural and other exemptions codified in the Clean Water Act.

This is a commonsense solution right in the mainstream of American values.

The Supreme Court's recent rulings put millions of acres of wetlands and thousands of miles of streams at risk. The Court's decision in its 2001 ruling in *SWANCC v. U.S. Army Corps of Engineers* and its more recent rulings in 2006—*Rapanos v. United States* and *Caravell v. Army Corps of Engineers*—threatened to roll back the Clean Water Act, making nearly 60 percent of our Nation's waters vulnerable to polluters.

The waters threatened by the narrowing of the Clean Water Act protections are important for fish and wildlife habitat, flood protection, and supply of drinking water. More than 117 million Americans receive drinking water supplied, at least in part, by headwaters and similar streams. These vital streams and wetlands are also critical to the health of our most treasured water bodies from the Chesapeake Bay, to the Great Lakes and Lake Champlain, to Puget Sound.

Millions of small streams and wetlands provide the fresh water that flows into these regional economic engines. If we do not protect this incredible network of waters, we cannot hope to restore these water bodies to health.

As Americans, we cherish clean water and the magnificent bounty we are blessed with. That is why last week's announcement was met with such strong support from a broad range of Americans, especially from our sportsmen. Among the groups supporting the administration's actions are Ducks Unlimited, the Izaak Walton League of America, the National Wildlife Foundation, the Theodore Roosevelt Conservation Partnership, and Trout Unlimited.

As chairman of the Water and Wildlife Subcommittee of the Environment and Public Works Committee, I am especially pleased the administration has taken such a strong and sensible approach to protecting our Nation's waters. Too often we raise our voices in criticism of the actions of others. Today, I am proud to add my voice to the chorus of thanks to the Obama administration for a job well done.

Thank you, Madam President. With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

(The remarks of Ms. LANDRIEU pertaining to the submission of S. Res. 158 are located in today's RECORD under "Morning Business.")

Ms. LANDRIEU. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

Mr. BARRASSO. Madam President, I ask unanimous consent to engage in a colloquy with my colleague, Senator HATCH of Utah for up to 20 minutes.

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

#### STATE FLEXIBILITY ACT

Mr. BARRASSO. Madam President, I come to the Senate floor as a physician who practiced medicine in Casper, WY, for about a quarter of a century, and I will talk about the concerns I have about the President's health care law, part of which has taken over \$500 billion from our seniors on Medicare and taken that money not to help Medicare or to help save Medicare or to strengthen Medicare but to put a whole new government program in place.

They want to put about 16 million or so people on Medicaid. It is a program that is not functioning well now. Many doctors don't want to take care of patients on Medicaid. Yet as part of this health care law, there is something called the Medicaid maintenance of effort, and 33 Governors have written to the President saying they don't want this to apply to them.

I am delighted to be a cosponsor of a piece of legislation called the State Flexibility Act. I do that and come to the floor with that as a physician who practiced medicine, and I have been coming to the floor week after week with a doctor's second opinion.

Today, my second opinion is that this State Flexibility Act is a good idea. It gives States the flexibility they need to give the Governors the flexibility they have requested. It is a bipartisan effort in the sense that Governors, whether they be Republican or Democrat, are looking for more flexibility with this Medicaid Program, and specifically the Medicaid maintenance of effort.

I ask my colleague, the senior Senator from Utah, Mr. HATCH, if he could perhaps tell us a little bit about this effort that he has now introduced, which I have cosponsored, the State Flexibility Act.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I thank the Senator from Wyoming. I appreciate his perspective on this important issue because he is a physician. The Senator has cared for Medicaid patients, and he understands the Medicaid Program better than anyone in this body. The Senator has also served in the State legislature, so he has that experience. He understands that, unlike Washington, States must balance their budgets every year.

I want to talk about the rollback of the Medicaid maintenance of effort or

MOE requirement threatening both Medicare beneficiaries and the financial health of many States throughout the country. I think it is important to go through a little history on this subject.

When Medicaid was first established as a limited State-Federal partnership, less than 5 million Americans used this program. Today, nearly one in four is enrolled in this government program. Medicaid spending now absorbs nearly one-quarter of all State government budgets, often forcing severe cuts to other critical State programs.

Unfortunately, this situation is getting even worse with the Medicaid mandate first imposed in the stimulus bill and again in the partisan health care law. As a result of these Washington mandates, States are being forced to make drastic cuts to important priorities, such as education and law enforcement.

Unlike Washington, which too often just prints money to pay for out-of-control spending, States actually have to make tough budget decisions every year. States are facing the worst budget crisis since the Great Depression, with a collective \$175 billion shortfall. Washington's micromanagement of State Medicaid programs makes it incredibly difficult for the States to balance their budgets and provide for those who are most in need. Because of the overly generous benefit programs that Washington forces on the States, they are unable to target health services to those most in need of assistance. Governors are unable to undertake commonsense reforms that root out program waste, fraud, and abuse.

The result of these MOE requirements is nothing short of a Washington-induced State fiscal crisis.

Mr. BARRASSO. I ask my colleague this: We are from neighboring States, Wyoming and Utah. I ask if the Senator could perhaps explain exactly how these Medicaid maintenance of effort mandates—and I believe they are onerous Washington mandates—directly impact Utah.

Mr. HATCH. In my home State of Utah, the fiscal year 2012 budget shortfall will be approximately \$390 million. That is a lot of money. My State has said:

MOE requirements imposed by the Federal Government will cost the State \$3.2 million annually.

This might not sound like a lot to the people in Washington, DC, who don't bat an eye at trillion-dollar deficits, but in Utah that is a lot of money in the State budget. My close friend in Utah, Governor Gary Herbert, said:

Not a State in this Nation is immune to tough budget decisions, and sometimes Washington makes it even harder. Utah must seriously weigh the real cost of Medicaid, one of the largest and most expensive programs we have. Unfortunately, Federal mandates tie our hands. Utah has zero flexibility to respond to economic conditions, or the option to scale the program back in a way that reflects local values and priorities.

Governor Herbert and many others across the Nation have repeatedly

asked Washington to repeal these onerous Medicaid mandates. We have introduced legislation—the State Flexibility Act, as the Senator mentioned—to do exactly what the Governors have asked.

The State Flexibility Act fully repeals these burdensome Medicaid MOE regulations. It starts to put States back in control to balance their budgets while simultaneously lowering Federal entitlement spending. Our legislation will save taxpayers \$2.8 billion over just the first 5 years. That is a lot of money.

Regardless of political affiliation, I am confident this bill has the potential to garner strong, bipartisan support in Congress, and it represents a strong first step toward achieving comprehensive Medicaid reform. Any Senator who has talked to his or her State's Governor knows we need to pass this legislation to enable States to survive the current fiscal crisis and to better care for the most vulnerable Medicaid beneficiaries in their respective States.

It is time for Congress to roll back these unreasonable MOE mandates and put the States, not Washington, back in charge.

I personally thank the Senator, my colleague from Wyoming, Mr. BARRASSO, for working with us on this legislation. Without him here, I don't think we would be able to do anywhere near as much as we are doing. The Senator, in particular, brings a unique perspective to the debate over MOE requirements, and I don't know of any Senator who is serving his State any better than he.

I would appreciate hearing more of the Senator's thoughts on this matter because he has the experience, and he has operated on countless people, and he has done it whether they have been Medicaid beneficiaries, people who have insurance, or people who have nothing. I know that. I have great admiration for the Senator from Wyoming. These States have been heavily burdened with MOE requirements, which are bureaucratic unnecessaries. I would like to hear from the Senator how important that is.

Mr. BARRASSO. I appreciate the comments of my colleague. I have taken care of Medicaid patients over the years, and I know this is a program that is burdensome. I also served in the State legislature, and I know the mandates coming out of Washington make it harder for the people back home to take care of patients and harder for our State legislatures to deal with helping people on Medicaid, making it more difficult for physicians to take care of those patients, and making it more expensive. There is a lot of waste in the mandate.

When Senator HATCH talked about the comments from his Governor, I have comments from ours as well, Governor Matt Mead, who has been in office only just since January. He wrote and was one of the 33 Governors who signed a letter to President Obama say-

ing that the costs of maintaining their Medicaid Programs are fast becoming a serious threat to the State's general funds.

We live in a State where we have to balance the budget every year. He went on to say that Wyoming needs to have flexibility, which is the key word and the title of the bill introduced by Senator HATCH, S. 868, the State Flexibility Act.

That is what Governors are asking for, flexibility, because with that flexibility they can do better for the patients, and they can do it cheaper. Wyoming needs the flexibility at the State level to ensure that the Medicaid Program is operated efficiently and effectively.

People do not believe they are getting efficiency and effectiveness out of Washington these days. They do not think they are getting value for their money. I agree with the American people. I have heard them loudly and clearly. I said it when I was practicing medicine and I say it as a Member of the Senate.

Our Governor goes on: Wyoming strongly supports the removal of these maintenance of effort requirements. This is why I come to the Senate floor every week to talk about this health care law, the implications of it, the impact on the people of this great country, and why I think this health care law is one that is ultimately bad for patients, bad for providers, the nurses and the doctors who take care of those patients, and also bad for the American taxpayers. At a time when we are borrowing 41 cents for every \$1 we spend in this country, we cannot afford to continue to waste money.

Our problem in this country is not that we are taxed too little, it is that we spend too much and do not spend it well. We have to begin focusing differently, and one of the ways we can do it—my understanding from looking at this is actually the Congressional Budget Office, which does the scoring on legislation, scored Senator HATCH's State Flexibility Act as actually saving, I think, \$2.8 billion total over 5 years.

Mr. HATCH. Right.

Mr. BARRASSO. Isn't that what we are trying to do: save money, help people, do it more efficiently, more effectively? That is why I am proud to cosponsor with my friend, Senator HATCH, the State Flexibility Act.

Mr. HATCH. And give the States flexibility to do what they can do better than the Federal Government. As a former medical liability defense lawyer back in my early days, I represented doctors, health care providers, nurses, and hospitals in defending them from what were, in most cases, frivolous suits that run up the cost of medicine.

I cannot tell you what it means to me to have Senator BARRASSO in the Senate with all the medical experience he has had. Frankly, the States can do the job, but they cannot do it within budget if we keep piling regulation and

onerous burdens on them, such as the partisan health care bill does.

Frankly, I want the Senator from Wyoming to know I feel it is an honor to serve with him and an honor to have a couple of medical doctors on our side. Dr. BARRASSO and Dr. COBURN are both excellent doctors. They have lived through these problems. They know what they are like. They do not have to have anybody tell them what is wrong with the approaches we are taking. They know what is wrong.

Frankly, I thank the Senator from Wyoming for being willing to serve here.

Mr. BARRASSO. I appreciate the kindness and I appreciate the fact that Senator HATCH is allowing me to work with him. He has a long and illustrious career of leadership in the Senate, and he has been a champion over the years of the fact that States are better than Washington to make decisions because what works in one State may not work in another State. If we give States the flexibility, ultimately they will do it better. They are the laboratories of democracy. That is why we believe in limited government and making decisions at the local level as close to home as possible, which is why I know so many Governors across the country support the State Flexibility Act. I am hoping we get a successful vote in the Senate on it because whenever Washington makes a one-size-fits-all decision, it hardly ever works for most folks back home.

Mr. HATCH. That is right. I believe this will have great bipartisan support among the Governors and hopefully in this body. I thank Senator BARRASSO for bringing this to our attention.

Mr. BARRASSO. I thank Senator HATCH.

Madam President, I will tell you, I still believe this is a law that is bad for patients, it is bad for health care providers of this country, the nurses and doctors who take care of them, bad for taxpayers. I will be back at home in Wyoming over the weekend visiting with patients, as well as providers, as well as taxpayers, listening to what they have to say. I know the people of Wyoming have great concerns about this health care law and would like the kind of flexibility that is described in S. 868, the State Flexibility Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN pertaining to the submission of S. Res. 170 are located in today's RECORD under "Submitted Resolutions.")

Mr. COCHRAN. I yield the floor.

#### COMMENDING CONGRESSMAN PETER WELCH

Mr. LEAHY. Mr. President, I would like share the good work being done by my friend and colleague in the House of Representatives, Congressman PETER WELCH.