

FEMA's directions. They did it picture perfect, exactly the way we would think all citizens should conduct their business.

Then, 3 years later, they got a notice in the mail and FEMA said: Oh, we messed up. We shouldn't have given you that money because of some technical reason and because of that we now want all that money back.

They worked a great hardship on this family. This is supposed to be government of the people, by the people, and for the people. That is not what has happened in this case. This has worked a great hardship on this family.

There are lots of community efforts around these floods: local civic clubs, churches, the community at large rolled out to help people. The Guglielmanas said they didn't need that because they had FEMA's help. So they have foregone a lot of local assistance, a lot of charity assistance, general help from their friends and neighbors because of FEMA. Now FEMA has come back and said they owe them the entire \$27,000. This could ruin them financially.

I have met with FEMA Director Fugate. He and I have had what I would think of as productive conversations, although this matter hasn't been resolved. One of the things we talked about is to get an amendment to the existing statute. We are working on that. We are working that bill through the system right now in the Senate. I have worked with colleagues on the Homeland Security Committee and also the Appropriations Committee. I am not saying we would have unanimous agreement on my approach, but certainly I have been trying to work with anybody in the Senate to make this bill better.

Unfortunately, what has happened in the last few days is FEMA has now taken the additional step of turning this matter over to the Department of Treasury for debt collection. To add insult to injury and to rub salt in the wounds, this \$27,000 debt, now with fines and penalties and interest, has gone to \$37,000—\$37,000 in debt after these folks were assured by the government they were completely entitled to because this was flood recovery; and the only reason they are not entitled to it is because of some technical issues that FEMA should have recognized from day one. They should have never offered to help these people, but what they have done is, they have now caused them great injury.

This is a matter of equity and fairness. Enough is enough. We have been talking to FEMA for months about this. Now Treasury is involved. Enough is enough. We need to get this resolved for this family and maybe a few others.

It is not just localized in Arkansas. We are going to see this happen over and over around the country because FEMA has a backlog of these cases—it is a long story—that got tied up in litigation for a few years and I can almost guarantee that virtually every Senator

in this Chamber at some point is going to have to deal with this.

I hope all will listen to what I am saying and, hopefully, help me get this resolved. But that is why I am putting a hold on all the Treasury nominees. We need to get this resolved, and we are going to do whatever it takes to get it resolved. We want to resolve this situation fairly for this family in Arkansas. Again, they are just the first of many whom we are going to see who have this same type problem.

FEMA has done them harm. Our government has done them harm and put them at a disadvantage. There is a principle in law called detrimental reliance. These people clearly relied on the government and relied on FEMA to their detriment and they are paying the price and the penalty for that now. When the IRS and Treasury gets involved, there are penalties and interest. American citizens should not be treated this way, especially those who are playing by the rules and don't have any other recourse.

That is all I wanted to say in my morning business—I see we have several in the Chamber to talk on other matters—that I am putting Treasury on notice that I am going to hold all their nominees until we sit down and work through this and, hopefully, get a good and fair result for this one family in Arkansas.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

COMMONSENSE SOLUTIONS

Mr. JOHANNES. Madam President, there has been a lot of talk about how we go about rebuilding the infrastructure after recent disasters and how we assist struggling States to accomplish that goal.

Many in this body do not believe the Federal Government should borrow money in an attempt to bail out States. We have our own financial mess right here at the Federal level that citizens across this country are saying, rightfully so, we have to get solved. But we can all agree that one of the best things the Federal Government can do is get out of the way and cut through the redtape. We must remove Federal hurdles and barriers, so much cumbersome process that constitutes the largest barrier to rebuilding our infrastructure.

In fact, I am very pleased to rise this morning and report there is language in the appropriations bill that I believe should get unanimous support in this body. It is part of the transportation section.

It simply says States may rebuild their roads and their bridges that have been damaged in disasters without having to repeat environmental study after study.

Gosh, what a commonsense solution.

Keep in mind, we are talking only about replacing roads and bridges that have already been through process,

that are already there, that were carrying traffic before the disaster. What we are saying is the most practical we could possibly say; that is, there is no need to repeat the expense of the time-consuming studies. Let's get out there and help the States get the work done. In other words, it saves States time and money by cutting through redtape and allowing them to, very simply, rebuild their roads and bridges.

I commend the senior Senator from the State of Nebraska, Mr. NELSON, for authoring this language. It is a commonsense approach, something we are used to in the Midwest, and it doesn't add one dime or one dollar to the Federal deficit.

This language should receive unanimous bipartisan support, especially from every Senator whose home State has been hit by disaster. Literally, as I speak, our State is trying to figure out how to recover.

Notwithstanding the fact that I think most people would agree this is so common sense, my colleague from Washington State, Senator MURRAY, has an amendment that would strike this language. I can't imagine why this body would stand in the way of States trying to rebuild their roads and bridges. In fact, in addition to States, Senator NELSON's language would help counties and communities that are so cash strapped, with so limited tax base, saying we will help them too.

For local authorities, the cost of repeating environmental studies is crushing. Even President Obama has called on his administration to drop unnecessary regulations and to look for redtape to cut through. Senator MURRAY's amendment, in all due respect, would do exactly the opposite. Her amendment would dig our bureaucratic heels into the sand, and it would say to States and communities and counties we know they have been struggling, we know they have been hit hard by disaster, but we are going to keep our expensive hurdles squarely in place. We are going to force them to jump over each and every one of them.

The language authored by my colleague, Senator NELSON, is a commonsense way to remove these Federal hurdles. I received assurance just this morning from the department of roads in my home State that this language would clear the way for several rebuilding projects in Nebraska. But we are not alone. I am guessing road departments across this country would say the same. There is little doubt in my mind that it would do the same for other States that have been faced with disasters, from the Midwest to the Northeast. We should rally behind Senator NELSON's language and make sure his efforts to clear a pathway for recovery are not blocked by the Murray amendment.

I encourage my colleagues to vote against the Murray amendment, to stand with me on the side of cutting redtape preventing States from rebuilding roads and bridges.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

CLASS ACT

Mr. THUNE. Madam President, I rise to speak to an issue that I think has been on the minds of a lot of people here and hopefully people across this country too; that is, this failed CLASS Act Program, which last week we finally got some—I would characterize it as good news because I think this is a program that was destined to fail.

On Friday last week, Secretary of Health and Human Services Kathleen Sebelius came out and said: Despite our best analytical efforts, I do not see a path forward for CLASS implementation at this time.

Essentially, what came with that and what accompanied that was a big volume of analysis that had been done that essentially supports the conclusion that it doesn't add up. We can't make the math work. I think that is something that hopefully my colleagues, as what we know now, will recognize; that we ought to eliminate and we ought to repeal this CLASS Act once and for all. That is something I tried to do as we were debating the health care bill almost 2 years ago. I offered an amendment in December of 2009 that would repeal the CLASS Act, believing at the time it wasn't going to work. We had, at that time, plenty of evidence to that effect. Unfortunately, it was included as a part of the health care reform bill to help pay for it. At that time, it was estimated it would generate about \$70 billion in revenue to be used to offset the cost of the health care bill or at least to put it in balance and to claim there was some deficit reduction associated with it.

I think the more recent estimate of what it would generate in terms of revenues in the early years is on the order of about \$86 billion. But we—those of us who have been skeptics about this program—suggested at the very beginning that this was not, in fact, the case, that it was a budgetary gimmick, and that it was going to saddle the Nation with additional debts. That was what the Congressional Budget Office concluded. There would be revenue in the early years, but as you got into the outyears, as the premiums came in there would be some revenues, but in the outyears, when the demands on the program started to come in, it just didn't add up and would add significantly to the Federal deficit. I think that is a conclusion now that has been drawn even by those who supported the program.

So my thinking at this time is that we, as a Senate—and hopefully the House of Representatives—ought to move to repeal the CLASS Act once and for all. We should not leave this on the books and allow it to become an opportunity at some point in the future for someone to say we ought to try to reactivate this or implement

this, knowing full well it does not work.

There were a lot of warning signals along the way that were ignored. There were repeated warnings by the Actuary and the administration that this was not going to work that were ignored by the Obama administration in their push to pass health care reform.

We did a report not that long ago. There was a working group that examined this. The report was called "CLASS's Untold Story." It was myself and some of my colleagues in the Senate and some of my House colleagues who requested it and delved into a lot of the e-mail traffic that occurred prior to its inclusion in the health care reform bill. We came across a number of warnings that were issued by the HHS Actuary.

The Chief Actuary predicted at the time that this would result in an "insurance death spiral." He said:

This could be a terminal problem for this program. The program is intended to be actuarially sound, but at first glance this goal may be impossible. The resulting premium increases required to prevent fund exhaustion would likely reduce the number of participants, and a classic assessment spiral or insurance death spiral would ensue.

That was in May 2009. In May 2009, that warning was coming from the Actuary at HHS.

Some time passed. This continued to be part of the discussion with regard to the health care bill. Come August or July of 2009—and this was again after additional analysis, review, and examination of this particular proposal—the Actuary went on to say:

Thirty-six years of actuarial experience lead me to believe that this program would collapse in short order and require significant Federal subsidies to continue.

It would collapse in short order. That is what was said by the HHS Actuary in July of 2009.

So they continued to plow forward, thinking that somehow they were going to be able to salvage this program, figure out a way to make it work.

In the August and September timeframe of 2009, the Actuary again says:

As you know, I continue to be convinced that the CLASS proposal is not actuarially sound.

That was the expert advice that was given to the administration about this proposal way back in 2009. Yet they plowed ahead and in December 2009 added it to the health care bill, assuming it would help offset the cost of that health care legislation.

At the time, many of my colleagues here on the floor talked about what a great program it was and how it all was going to pay off and was all going to balance out. We had people say it was a critical program, it was a breakthrough program, it was a win-win. We had Democrats come over here and talk about the virtues of this program—I believe knowing full well there were questions about it.

Having said that, there was a big push on at the time to pass health care

reform. As a consequence, this piece of that reform was included notwithstanding our efforts to repeal it or to strike it at the time. So we went forward. Here we are now 18, 19 months later, and there is full recognition of the fact that this does not pencil out, it does not add up, the math flat does not work.

Where do we go from here? In my view, what we ought to be doing is repealing this bill, which is why it seems mystifying to me that the administration is now suggesting that if Congress were to repeal the CLASS Act, he would veto the repeal bill. You have all this actuarial data; you have all these statements; you now have all this analysis that has been done that demonstrates the very point we were making at the initial consideration of this; that is, it was just not going to work.

So I hope and invite my colleagues here on both sides of the aisle to join me in the effort to repeal this legislation. I introduced a bill, along with Senator GRAHAM, back in April of this year that would repeal the CLASS Act. It has 32 cosponsors. I hope we get enough cosponsors here in the Senate to where we can put an end to this once and for all.

We are going to be looking for opportunities to do that in the weeks and the months ahead because, as I said, this is something that clearly does not work. It now not only has all the arguments that were being made at the time prior to its passage, but subsequent to its passage all the analysis that has been done comes to the same conclusion; that is, the numbers just do not add up.

What does that mean for the future of long-term care? I submit there are other things we should do. I don't think this is an issue which is going to go away. We have more people who are living longer in this country. Long-term care is a very serious issue. But going about it and trying to fix it in a way that would burden future generations with more and more mountains of debt piled on their backs—the cost of this over time—is the wrong way to go about it, and that is precisely what this particular approach would do.

We have had many discussions about various remedies for the long-term care issue. We will continue to put our ideas forward in hopes we can address it as part of some bill that would take a look and examine these issues but do it in a way that is fiscally responsible, fiscally sound, that is actuarially sound, and that does not create the massive amount of borrowing, the massive amount of debt, and that does not put in place a flawed program that we knew at its inception was not going to work.

I hope we will put an end to this, that we can get colleagues on both sides together to agree to that, and that we will be able to add cosponsors to that piece of legislation and look for the first opportunity to repeal this legislation and make sure we end it once and