

Solyndra has worked out. It was a complete failure.

It is time we got out of the way of the Keystone Pipeline. I hope the American people will dismiss the economic theories and visions of our President as he seeks to divide our country. I believe we can achieve a prosperous future by empowering individuals rather than our Federal Government. Americans are smart enough to put their trust in themselves and their neighbors, not in bigger government. It is time to end the political blame game and divisive rhetoric and, instead, work on genuine and real policies that will create economic jobs and, more importantly, economic growth that is going to help all Americans; in other words, expanding the economy because this does not have to be a zero sum gain. We can have more for more people, and if we don't have more for more people, we are going to have less for more people and everybody is going to lose out.

Mr. MERKLEY. Mr. President, we are in the midst of an important debate over whether we will allow all working Americans to be hit with a big tax increase next year.

This is a critical measure of relief for our working families in these tough times. During the aftermath of the most severe recession since the Great Depression, many middle-class Americans cannot afford to lose the \$1,000 the average family receives from this tax cut. Furthermore, economists across the spectrum believe that extending the payroll tax cut is a critical step in building momentum toward a stronger recovery and minimizing the chances that our economy could slip back into recession.

While keeping working Americans from being hit with this tax increase is our first and most important priority, we must also look to what is best for our economy when deciding on offsets for the cost. The offset in the bill that we voted on 2 weeks ago made good sense: asking millionaires and billionaires to fund a fairer share of our national budget. I am concerned, however, about a new offset provision in S. 1944 that increases the guarantee fee on mortgages backed by Fannie Mae and Freddie Mac. I am very wary of placing additional costs on new mortgages given the ongoing crisis in the housing and mortgage markets. Moreover, if there is such a fee increase, it should be used to strengthen our battered housing market.

I look forward to discussing other offsets with my colleagues as we continue this debate. This much is clear: Keeping this tax cut in place is a huge factor in the success of our working families and a huge factor in the recovery of our economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

#### FEDERAL WORKERS

Mr. CARDIN. Mr. President, it is time for Republicans to end their war on dedicated, hard-working middle-class Federal employees. Who are these Federal workers? They are the Veterans' Administration's nursing assistants who care for our wounded warriors; the Department of Defense civilian employees who support our military troops at home and abroad; Social Security Administration claims representatives who process benefits to our Nation's senior citizens and people who qualify for disability payments. They also include Nobel prize-winning scientists who are conducting groundbreaking research at the National Institutes of Health and the National Aeronautics and Space Administration on everything from fighting cancer to understanding the origins of the universe; the Environmental Protection Agency and Food and Drug Administration staff who keep our air and water clean and our food and drugs safe; the Federal Aviation Administration's air traffic controllers who keep the skies safe; also, the Department of Justice, Federal Bureau of Investigation, and United States Marshal Service attorneys and law enforcement officers who track down and arrest and convict terrorists and drug cartel and gang members.

The list of those who are on the front line of public service goes on and on. Federal employees are dedicated and hard-working, and like many other Americans, many of them are struggling to deal with their family budgets. And yet Federal employees are already contributing \$60 billion to the deficit reduction through a 2-year pay freeze.

They have already contributed to deficit reduction. They were the first in line to try to help balance our budget.

Like their private sector counterparts, Federal employees haven't been immune to the country's economic woes. They are confronting similar hardships: disabled or unemployed spouses, declining home values, rising gasoline and living expenses. Many Federal employees head single-parent families. As do other Americans, many Federal employees struggle to pay their mortgages and find ways to send their children to college.

H.R. 3630, the House Republicans' payroll tax cut bill, would require 2 million Federal employees to shoulder nearly one-half of the cost of a tax reduction that benefits 160 million Americans. So what the Republican bill is doing is extending the payroll tax reductions for working families, but saying to the middle-class Federal worker: You are going to pay most of the burden. That is not going to help our economy. That is not the right way to extend the payroll tax reduction.

The current Republican assault on our Federal employees is piled on top of the current 2-year pay freeze, which is piled on top of a workforce already lagging behind the private sector when

it comes to pay. According to the non-partisan Congressional Research Service, average wages among all workers in our economy have risen over 600 percent since 1969, while salaries for civilian Federal employees have grown by a little over 400 percent since 1969. There is a widening gap between public sector employees and the private sector.

What these proposals would do is widen that gap even further.

Republicans want to extend the current pay freeze for another year. That would cost a Federal employee who makes \$50,000 annually about \$800 a year. A 3-year pay freeze would cost GS-5 employees almost \$4,000 in cumulative lost salaries; for GS-7 employees, almost \$5,000 in cumulative lost salaries; and for GS-9 employees, almost \$6,000 in cumulative lost salaries.

The Republican bill would require massive increases in the contributions current and future Federal employees make to their retirement system—a system that is currently fully funded—while slashing benefits. That is rubbing salt in the wound of the additional pay freeze. So the Republican bill takes a 2-year pay freeze and adds a third year pay freeze and tells our employees to triple their contributions to their retirement system, which is another pay cut. It is not only a freeze, Republicans are proposing. It's a pay cut for our Federal workers.

In addition to these assaults, we are already asking the federal workforce to do more with less. As my colleagues have noticed, when it comes to job growth numbers, the public sector numbers aren't going up; they're going down. But the workload isn't going down. We are asking our Federal workers to do more with less, to have a 2-year pay freeze, and now to take a pay cut. That is not fair.

The Republicans save their most severe punishment for future Federal employees, making it clear that their intention is to provide as many disincentives for people to consider a career in public service as possible. Increasing pension contributions for future hires by 3.2 percent would force an employee making \$30,000 a year to pay \$1,200 rather than \$400. We should be embracing people who are willing to engage in public service. The Republicans are doing just the opposite.

It is time for the Republicans to stop their war on hard-working Federal employees. Increasingly, the Federal workforce is being asked to do more with less. Increasingly, the Federal workforce is being asked to shoulder a disproportionate share of deficit reduction. It is time to stop that assault. I think it is time we all properly recognize the dedication, hard work, valor, sacrifice, and professionalism of our Federal workers.

With that, I yield the floor and suggest the absence of a quorum.

I withdraw my request.

The PRESIDING OFFICER. The Senator from Iowa.

## HEALTH CARE REFORM

Mr. GRASSLEY. Mr. President, in the past 3 weeks I think I have come to the floor three times to discuss the case on the President's health care reform bill: one time to discuss the constitutionality of the individual mandate and another time to deal with the severability clause. I come now to speak about the unconstitutionality of the massive expansion of Medicaid. Those are three of four issues that the Court is going to deal with. My colleagues probably remember the Court has extended the period of time they normally deal with arguments before them from 1 hour to 5½ hours because this is such a very important case.

Today I wish to talk about the far-reaching implications of this mandate, but also about the constitutionality of the Medicaid expansion. If the Supreme Court rules the individual mandate unconstitutional, it will have the effect of striking down this new law that has not been fully implemented. If the Supreme Court rules that the Medicaid expansion and the Affordable Care Act is unconstitutional, it has the potential to cause significant changes in a program that has been in operation for the last 46 years.

Just to remind everybody about Medicaid, it was created in 1965 at exactly the same time Medicare was created. Where Medicare was created to provide health care coverage for our senior citizens, Medicaid was created as a safety net for low-income individuals. Medicare is run exclusively by the Federal Government. Medicaid is a Federal-State partnership. The Federal Government sets the parameters of the Medicaid Program. It pays at least half of the program in every State but then turns the functional operation of the Medicaid Program over to the States.

In the 46 years since both programs were created, eligibility for the Medicare Program has been essentially unchanged. On the other hand, eligibility for the Medicaid Program has expanded significantly through the years and, with that, the program has grown dramatically as well.

Medicaid, when it was created, covered fewer than 5 million. Today, the Medicaid Program currently covers nearly 57 million. The program spends more than \$300 billion each year.

Medicaid has expanded so dramatically for two reasons. First, at various points in the last 46 years Congress has mandated that the States increase eligibility and services for the program. Second, Congress has also given the States the option to expand their eligibility. When Congress gives States the option of expanding their eligibility, States can expand and the Federal Government will still provide its proportionate share of Federal dollars.

For instance, one of the programs I helped get passed with Senator Kennedy from Massachusetts when he was a Member of the Senate was a program that allowed some help for families who had particularly high health care

costs for kids—something that was just catastrophically high. That is just one example.

The decision to expand is up to the States. When Congress mandates the States expand eligibility, States can either expand their programs or forfeit all Federal funds for the program.

Now, this is what we call an all-or-nothing requirement. It has been used in every expansion of the program. The all-or-nothing requirement on States has not only been used to expand eligibility within the Medicaid Program, but it has been used to expand services and require changes in the administration of the program.

If the Federal Government wants States to cover podiatrists in Medicaid, the Federal Government can mandate States to do so. If a State doesn't do it? Withhold all Federal dollars to that State. If the Federal Government wants States to implement a secondary payer program to ensure that services are being properly paid by private dollars, the Federal Government can mandate States to do so and withhold every Federal dollar if that State refuses to go along.

It has been a staple of the program for 46 years that the Federal Government can require States to do certain things in Medicaid. Now comes along the Affordable Care Act. That act requires States to expand their Medicaid Program to cover all individuals up to 133 percent of the poverty level. It is the first expansion of Medicaid's mandatory eligibility groups since the all-or-nothing expansion in the bills of 1989 and 1990. Those were both reconciliation acts.

It is this all-or-nothing requirement that States are challenging and that the Supreme Court will consider next year and has given a certain portion of the 5½ hours just to debate this issue. So I think that means the Supreme Court thinks this is a very significant issue they are being asked to consider.

So I would like to describe the arguments being made by the States that this is an unconstitutional use of congressional power. The States argue that the 10th amendment limits the power of Congress to coerce States to accept Federal funds as opposed to providing inducements. The States argue that a restriction on Federal funds compels rather than induces if its burdens and losses as they affect vital ordinary State functions are too burdensome and costly. So I quote from their position:

By conditioning all of the States Federal Medicaid funding—for most States, more than a billion dollars each year—upon agreement to substantially expand their Medicaid programs, the Affordable Care Act passes the point at which pressure turns into compulsion and achieves forbidden direct regulation of the States.

The part of the quote which says it is at the point where pressure turns into compulsion makes the act unconstitutional because it has always been a principle that the Federal Government

can put certain conditions on States, but if it reaches a point where the State has to do it, in this case the States say: You have really gone too far.

The Affordable Care Act withholds all Federal dollars, then, from States that refuse to submit to the policy dictates of the Congress. Medicaid accounts for more than 40 percent of all Federal funds that States receive. States spend on average 20 percent of their State budget on Medicaid. Federal funds cover, on average, 57 cents of each dollar spent on the program because previously I said the Federal Government gives every State at least 50 percent, but the average of all 50 States is 57 percent of the Medicaid dollars coming from Federal dollars.

In my State of Iowa, for instance, I think it is 63 percent from the Federal Government and 37 percent of State funds. So the loss of all Federal Medicaid funding would obviously be devastating to the States.

The States maintain that the law's expansion of Medicaid was deliberately designed to force the States to agree to expand the program because of the threat that a State's entire Federal funding stream would be cut off if they decided not to go along with decisions made in Congress. In the harshest terms, they were made an offer they could not refuse. Further quoting from the States' argument:

The Affordable Care Act essentially holds the States hostage based on their earlier decision to establish a Medicaid infrastructure and accept federal funds subject to different conditions.

The Affordable Care Act uses the States' decision to accept earlier federal inducements against them, and, in doing so, presents states with no real choice: they must abandon completely the existing Medicaid system and funding or accept the radical new conditions. This amounts to a massive bait-and-switch.

The States are arguing to the Supreme Court that there is no way the States can turn down a Federal inducement as massive as all Medicaid funding.

This is especially true because the effect of declining is that the State's own taxpayers have to pay the full cost of providing health care for the neediest citizens of the State and, at the same time, provide the Federal Government taxes for Medicaid funds that would be distributed to pay for the program, including expansion in the other 49 States.

Since no State could make taxpayers fund the State and Federal portions of Medicaid, while also taxing their citizens to pay for Medicaid in the other 49 States, it is a phony choice, not a real choice, for the States to turn down the money to expand their Medicaid Programs. In other words, the States are being compelled to do so.

The States argue that giving notice of the coercion they face does not make the choice any less coercive, and they argue that when States originally accepted Medicaid, they were not