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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who loves us without ceasing, we turn our thoughts toward You. Remain with our Senators today so that for no single instance they will be unaware of Your providential power.

We thank You for Your infinite love that permits us to make mistakes yet still grow in grace and a knowledge of You. Lord, save us from any evil course or idle path that leads away from Your will. Today, we pray for the President of the United States and for the leaders in every land. Help them to bear their responsibilities with honor, and, Lord, today we also thank You for the amazing career of Senator BARBARA MIKULSKI.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 21, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, following leader remarks the Senate will be in a period of morning business for 1 hour, with the majority controlling the first half and the Republicans controlling the final half.

Following morning business the Senate will resume consideration of the capital formation bill. At approximately 10:40 this morning, there will be a cloture vote on the IPO bill.

RESERVATION OF LEADER TIME

Mr. REID. Will the Chair announce the business of the day.

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the minority controlling the final half.

The Senator from Illinois.

AFFORDABLE HEALTH CARE ACT

Mr. DURBIN. Madam President, there has been a lot of discussion about the affordable health care act passed by Congress. In fact, just next week, across the street, the Supreme Court will take up this bill and decide whether it is constitutional. It is an important decision. It is one that will affect millions of Americans, and scarcely anyone understands the impact of this law and what it means to their daily lives.

The first aspect I wish to speak about is the most controversial aspect of it, the so-called individual mandate. What is it? From my point of view, it is a basic method of saying to everyone in America: You have a personal responsibility. You cannot say you are just not going to buy any health insurance; that you don't think you are ever going to need it and are not going to worry about it.

The problem is, of course, those people who make that statement get sick. Some of them get involved in accidents. Some go to a doctor and are diagnosed with terrible illnesses and diseases that require treatment and surgery, and that costs a lot of money. The uninsured people show up at hospitals. They are not pushed away; they are invited in. They receive the treatment. Then they can't pay for it.

It turns out that 63 percent of the medical care given to uninsured people in America isn't paid for—not by them. It turns out the rest of us pay for it. Everyone else in America who has health insurance has to pick up the cost for those who did not accept their personal responsibility to buy health insurance.

So, so what? What difference does that make? It makes a difference. It adds \$1,000 a year to our health insurance program. In other words, you and me and everyone with health insurance is subsidizing those people who say: Don't mandate anything on me. Don't tell me I have a personal responsibility. But when I get sick, you can pay

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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for it. That is what the individual mandate comes down to.

I listen to those who say, well, this is just too darn much government to say that people who can afford it need to have health insurance. Keep in mind, this health care bill says if people cannot afford it—if they are too poor or their income is limited—there is a helping hand, not only in the Tax Code but even through Medicaid to make sure they have affordable health care insurance which will never cost them more than 8 percent of their income. A lot of American families would jump at health insurance that would only cost 8 percent of their income. But the law says people have to be willing to pay up to 8 percent of their income to have health insurance. The reason, of course, is if they don't pay, everyone else pays. If they get sick, they cost us \$116 billion a year in uncompensated health care coverage paid for those who do not accept their personal responsibility to buy health insurance.

Ruth Marcus has an article in this morning's Washington Post, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 20, 2012]

116 BILLION REASONS TO BE FOR THE
INDIVIDUAL MANDATE
(By Ruth Marcus)

The most compelling sentences in the Obama administration's brief defending the constitutionality of the health-care law come early on. "As a class," the brief advises on Page 7, "the uninsured consumed \$116 billion of health-care services in 2008."

On the next page, the brief drives the point home: "In 2008, people without insurance did not pay for 63 percent of their health-care costs."

Those figures amount to a powerful refutation of the argument that the individual mandate—the requirement that individuals obtain insurance or pay a penalty—exceeds the government's authority to regulate interstate commerce. To me, \$116 billion seems like a whole lot of commerce.

But let's leave the Supreme Court justices to hack their way through the underbrush of the Commerce Clause. Because those numbers are not only relevant to Commerce Clause jurisprudence, they illuminate the fundamental irrationality of public opposition to the individual mandate.

The mandate is by far the most unpopular feature of a law on which Americans are otherwise evenly divided. A Kaiser Family Foundation poll this month found that two-thirds of those surveyed disliked the mandate. Even among Democrats, a majority (53 percent) opposed the requirement; independents (66 percent) and Republicans (77 percent) were even more hostile.

Yet this is a provision that the overwhelming majority—those with insurance—should support, for the simple reason that these people currently end up footing the bill for much of that \$116 billion.

As the government's brief notes, "Congress found that this cost-shifting increases the average premium for insured families by more than \$1,000 per year."

In other words, those worried about having to pay ever-higher premiums should be clamoring for the individual mandate, not agitating for repeal.

Indeed, for all the bristling over the mandate, it will be irrelevant to the 80 percent of non-elderly Americans who already have insurance, either through their employers, government programs, or purchased on their own.

The biggest real-world risk to these people would be if the court were to overturn the mandate yet allow the rest of the health-care law to remain in place, driving premiums ever upward.

Amazingly, Republicans have managed to transform the mandate from an exemplar of personal responsibility into the biggest public policy bogeyman of all time.

The irony of the fight over the mandate is that President Obama was against it before he was for it. During the 2008 campaign, one of the signature differences between Obama and Hillary Clinton was that Clinton's health plan included an individual mandate whereas Obama's mandate covered only children.

Once elected, Obama quickly recognized the inescapable truth: An individual mandate was essential to make the plan work. Without that larger pool of premium-payers, there is no feasible way to require insurance companies to cover all applicants and charge the same amount, regardless of their health status.

In part, hostility to the mandate reflects a broader uneasiness with the perceived encroachment of big government.

In the Kaiser poll, 30 percent of those who opposed the mandate cited government overreach as the biggest reason. Not surprisingly, twice as many Republicans (40 percent) cited that reason as did Democrats (18 percent).

But opposition to the mandate also stems from the public's failure to understand—or, alternatively, the administration's failure to communicate—basic facts.

For example, Kaiser found that when people were told that most Americans "would automatically satisfy the requirement because they already have coverage through their employers," favorability toward the mandate nearly doubled, to 61 percent.

Favorable attitudes rose to nearly half when people were told that without the mandate, insurance companies would still be allowed to deny coverage to those who are sick; that without the mandate people would wait until they were sick to purchase insurance, driving up premium costs; or that those unable to afford coverage are exempt. "People don't understand how the mandate works at all and they don't understand why it's there," Kaiser's polling director, Mollyann Brodie, told me.

Brodie suspects that it's too late to change minds. "This law as a whole has really become a symbolic issue to people and they really aren't open to information," she said.

Maybe, but the administration must keep trying—not only to sell the law's goodies but to explain how the mandate makes them possible. Otherwise, they could end up winning the minds of the justices, yet losing the hearts of the people whose votes they need to keep the law in place.

Mr. DURBIN. Madam President, this article spells it out. This issue of an individual mandate is an issue of personal responsibility. If you believe someone should be able to walk away from their responsibility to have health coverage they can afford and that their medical bills should be your family's responsibility, then cheer on all these folks who are saying we are going to repeal ObamaCare. That is what it boils down to. Do you want to pay their bills? I don't think we should

have to. I think everyone in this country should accept that responsibility.

There are some other aspects of the affordable health care act which we don't hear talked about from those who are calling for its repeal. Let me tell my colleagues one. Do you have a child graduating from college, looking for a job? I have been in that circumstance. My wife and I raised three children. Some of them found a job, but it took a little while. While they were looking for a job, did you ever say to your son or daughter fresh out of college: How about health insurance. They probably said to you: Sorry, Mom; sorry, Dad. I can't do that now. When I get a job, I will get back to it. But I feel just fine. I feel just fine.

It doesn't work that way, and any responsible parent knows it. So we changed the law, and here is what we said: If you have family health insurance, it can cover your son or daughter up to the age of 26. That expanded the reach of health insurance coverage. It covered these young college graduates and young people looking for work so they had that protection even when they were unemployed.

So did it make any difference? Thanks to this provision, 2.5 million young people have gained coverage nationwide, and 102,000-plus in my State of Illinois. That means for 2.5 million parents, some peace of mind, knowing their kids are covered by the family plan. That was part of this bill which many Republican Presidential candidates are saying they want to repeal. Really? Do you want to explain that to 2.5 million families who have the peace of mind that their son or daughter is covered with health insurance up to the age of 26?

How about the seniors paying for their Medicare prescription drug bills. There was this doughnut hole, which means if seniors have prescription drugs covered by Medicare and they are expensive, they will reach a point during the course of a year when they have to go into their savings to pay for about \$2,000 worth of prescription drugs before the government comes back and starts helping them again. We started closing that doughnut hole, closing that gap, giving \$250 of that \$2,000 they have to pay back to people in a rebate initially, and then providing a discount on drugs for seniors. That is part of affordable care. That is part of what the Republicans scream is ObamaCare.

Is it a good idea? Well, just ask 152,000 Medicare recipients in Illinois who have received this rebate to help pay for their prescription drugs. Ask 144,000 seniors in Illinois who have received a 50-percent discount on drug costs, and then ask the millions across America who have benefited. We are giving people on fixed incomes and limited savings a helping hand so they can have the prescription drugs they need to be healthy and strong and safe and independent. Is that what you want to be when you are a senior? Most of us do, and this bill helps.

Third, this bill basically covers preventive services. We all know the story: Get in and see a doctor for a colonoscopy or a mammogram. Early detection and treatment is money saved and lives saved. We extended preventive care under Medicare. For 1.3 million Medicare recipients in Illinois—just in my State, 1.3 million; more in the Presiding Officer's State—they have preventive care now that they didn't have before. It means they are likely to stay healthy longer and cost less to our health care system. This is another aspect they want to repeal, those who are running against the affordable care act, running against the health care bill President Obama has pushed for.

There is also a provision which says insurance companies have to spend 80 percent of the premiums they collect—80 percent—on actual medical care. They can take 20 percent for profits and administrative costs and the like but 80 percent on actual medical care. The State of Minnesota already had that on the books, and it worked. So we said let's do it nationwide so if premiums go up, it is to reimburse health care—not to take out in profits, not to take it out in bonuses, not to spend on an advertising budget for an insurance company. That is a big change. The insurance companies hate it like the devil hates holy water, and the Republican Presidential candidates want to repeal it. I think it is a sensible change to ensure coverage and one that we ought to protect, not prohibit.

There are other provisions in this law as well, but one that affects me personally and has affected, I am sure, thousands of Americans is the question of preexisting conditions. Do you have one? A lot of people do. A lot of people don't even know they have one. Sometimes insurance companies dream them up. They would deny coverage for health insurance if somebody had—get ready—acne, a preexisting condition so no coverage. If there is a history of suicide in a family, they would deny them health care coverage, preexisting condition.

Let me just say to every parent listening: Thank the Lord if your child doesn't have asthma, diabetes, or something more serious because until the affordable care act was passed, that was enough to disqualify your child and maybe your family from health insurance coverage. Oh, they can't wait to repeal that. They say: Let's repeal ObamaCare. Let's get rid of that preexisting condition provision, and let those insurance companies deny coverage.

America, is that what you want? Is that what you are looking for? Is that too much government to say to insurance companies: You can't deny children under the age of 18 health insurance coverage if they are victims of diabetes, if they have had a bout with cancer, if they have asthma? Oh, some of these folks are for the Wild West: Get government out of my life.

I will tell my colleagues this: We know sensible regulation of insurance coverage gives people peace of mind and gives families a chance to know their child with a challenge or a problem is still going to get the very best medical care.

There is something called lifetime limits, which is another change. You go to the doctor, and the doctor says: Well, sorry to tell you, but you have been diagnosed with a form of cancer. We can treat it. It is going to take aggressive chemo, radiation, maybe even surgery. It is going to take some time, and it is going to cost some money, but at the end of the day we are going to save your life, and you are going to live. You are going to live to see your daughter's wedding, and you are going to live to see your grandchildren.

Then you get into it. You say: I am determined, my family is with me. I am going to pray for it and get the right outcome.

Guess what happens. It turns out the cost blows the lid off your health insurance coverage. You had a lifetime limit on how much they would pay, which you never thought you would use until that diagnosis came down. So now we have basically said we are removing lifetime limits on health care. That is part of ObamaCare. That is part of the affordable care act.

So I say to my Republican friends and those running for President: You want to go to the American Cancer Society and enter into a debate with them about whether lifetime limits are the right thing to do? They are going to explain to you thousands and thousands of American examples of why people with lifetime limits end up in a tragic situation where they need more coverage, they need more care. Their lives can be saved, but their health care coverage is cut off. That was the old days. That was before the affordable care act.

So those who want to repeal it stand up and get cheering crowds. In those cheering crowds are cancer patients. They ought to stop and think before they start cheering and know what they are cheering for.

The affordable care act is a sensible, reasonable step in a direction toward containing health care costs and making health care insurance coverage fairer for Americans all across our Nation.

Is it a perfect law? Of course not. As I have said many times, the only perfect law I am aware of was carried down a mountain on clay tablets by Senator Moses. Ever since, we have done our best. We can always do better, and I am open to change, I am open to improvement. But for those who want to walk away from the affordable care act, listen to what they are walking away from.

They are imposing a \$1,000 premium on families to pay for the uninsured who will not accept their personal responsibility to buy health insurance. They are walking away from helping

seniors pay for their Medicare prescription drugs. They are turning their back on families with young children fresh out of college looking for jobs, with no health insurance coverage. They are inviting the insurance companies to once again turn down your child and your family because of a preexisting condition. They are saying, once again: Let's get into the world of lifetime limits on insurance no matter how much health care costs.

That is their idea of a future—not mine, not my family's. I have lived through part of this. Many others have as well. So when you hear their cheering crowds about repealing the affordable care act, hoping the Supreme Court finds some aspect unconstitutional, step back and ask those cheering crowds about their own health insurance.

The last thing I want to say is this. It is interesting that Senators are debating this. You ought to see our health insurance. You ought to see what we have as Members of Congress. We have the Federal Employees Health Benefits Program. Guess what. It is a government-administered program. Oh, my goodness. You mean Republican Senators are part of a government-administered health care program? Yes. And you mean to tell me they have to deal with an insurance exchange? Yes. That is what the Federal Employees Health Benefits Program is.

Eight million Federal employees and their families choose once a year—in my case from nine different plans that cover Illinois. We like our coverage in my family. Federal employees like their coverage. Senators like their coverage. But when it comes to extending this same benefit to every other American, oh, what a horror story; that is too much government. Really? If you are a person of principle and believe a government-administered health care plan is too much government, step up here in the well and tell people: I am giving up my Federal health insurance. I have not heard a single Republican Senator say that—not one. So let's find out. When we come down to the question about health care insurance for all Americans, I think they deserve at least the kind of coverage that Members of Congress have.

Madam President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

JOBS ACT

Mr. MCCONNELL. Madam President, for the past several months, I and others have been calling on the Democratic majority here in the Senate to take up and pass the various bipartisan jobs bills that House Republicans have been sending across the dome. These bills on their own certainly will not