The current Chairman of the SEC, Mary Schapiro, has said that one component of H.R. 3606 is ''so broad that it would eliminate important protections for investors in even very large companies.'' Former SEC Chairman Arthur Levitt went much further, calling H.R. 3606 ''a disgrace'' and the ''most investor-unfriendly bill that I have experienced in the past two decades.'' Lynn Turner, former Chief Accountant at the SEC said, ''It won't create jobs, but it will simplify fraud.''

And this is what Mike Rothman, the Commissioner of Minnesota's Department of Commerce, had to say:

Too many Minnesotans have suffered too long from unemployment. With nearly 170,000 Minnesotans out of work, our State's highest priorities are supporting economic and business growth and creating jobs. The Jobs bill passed recently by the U.S. House of Representatives strives to achieve much-needed job growth, but contains unwarranted reduction in significant investor protections.

The Minnesota Department of Commerce works to prevent securities fraud. Last year, the Commerce Department registered over 7,000 new licenses to broker dealers, agents, and investment advisers and has over 125,000 individuals and entities currently licensed. Through our State registration process, we work to ensure that those selling securities and advising consumers about securities are both knowledgeable and capable. This essential level of oversight helps ensure basic protection of Minnesota investors and consumers.

The House version of the Jobs bill threatens to unravel what years of experience teaches us is required to protect investors by curtailing state oversight and, in the interest of protecting our State's capital market, I urge you to support the substitute amendment. Working together, we can make every reasonable effort to create jobs while safeguarding the need for basic and essential measures of consumer protection.

That is from Minnesota's Department of Commerce, the primary watchdog for securities in the state of Minnesota.

Minnesota's AARP State President, Dr. Lowery Johnson, summarized the issues this way:

Older Americans who have saved their entire lives by accumulating savings and investments are disproportionately represented among the victims of investment fraud. This legislation before the Senate undermines vital investor protections and threatens market integrity. Older Minnesotans deserve safeguards that ensure proper oversight and investor protection.

We must not repeat the kind of penny stock and other frauds that ensnared vulnerable investors in the past. The absence of adequate regulation in the past has undermined the integrity of the markets and damaged investor confidence while having no positive impact on job creation. Please preserve essential regulations that protect older investors from fraud and abuse, promote the transparency, and ensure a fair and efficient marketplace. We believe the amendment to be offered by Senators Reed, Landrieu and Levin moves closer to achieving this balance and deserves your support.

I have also heard from other consumer groups from around the country. The Consumer Federation of America supports the INVEST In America Act, and cautions against H.R. 3606, noting that it would ''undermine market transparency, roll back important investor protections, and, if investors behave rationally, drive up the cost of capital for the small companies it purports to benefit.''

All of these voices—from Minnesota and across the country—shaped my position on these bills. That is why I supported the INVEST In America Act. That is why 55 Senators voted in favor of it. The INVEST In America Act also included reauthorization of the Export-Import Bank, which has supported almost $1.2 billion in export sales in Minnesota over the last 5 years, and well over half of those exporters are small businesses. That is a lot of jobs in Minnesota.

We have made some improvements to this bill. The amendment passed in the Senate is better than the language in the House bill. But it still leaves too many opportunities for harm. Here is the bottom line: I strongly support entrepreneurs, I support innovation, and I support job creation. The INVEST In America Act struck the right balance between promoting jobs and entrepreneurship while preserving the integrity that our markets have historically enjoyed.

American public companies have benefited from the lowest cost of capital in the world, and this is because of the low risks associated with investing in transparent, well-regulated markets. America is a great place to invest because the entire world has confidence in our markets. If H.R. 3606 increases fraud, or even just investment losses, this bill runs the risk of backfiring completely—decreasing investor confidence and ultimately increasing the cost of doing business. And this will ultimately destroy jobs, not create them.

In the end, I couldn't support H.R. 3606 for all those reasons. It is a bill that is going to enable fraud, a bill that turns our securities market into a lottery game, and a bill that will lead to many Minnesotans, especially seniors, losing their hard-earned savings and investments.

HEALTH CARE

Mr. HATCH. Madam President, in defending the Constitution and arguing for its ratification, Alexander Hamilton stated plainly in the first of the Federalist Papers the challenge and the promise of American democracy.

He explained:

It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.

The challenge identified by Hamilton and our Founding Fathers remains with us today.

Will American citizens and will our political institutions maintain our Constitution and adhere to the rule of law or will we succumb to force and the whims of the moment?

Will the law be supreme and will the Constitution endure or will politics prevail?

This is a choice that Americans and public officials face every day.

But some moments present this choice in bolder terms. And the legal challenge to the President's health care law is one of those moments that present a stark choice.

Will we support the Constitution or will we throw in with the passing wishes of temporary majorities?

That is the choice that we as Americans face and that the Supreme Court will face when it hears oral arguments on this case next week.

There are a number of issues before the Court, but at the top of the list is the constitutionality of the individual mandate.

Like many critical constitutional questions that come before the American people, particularly those of first impression, it often takes some time for a consensus to emerge.

The answer is not always immediately clear. But through public dialogue and argument, the constitutionality of these actions comes into greater focus.

That is what happened with ObamaCare's individual mandate. As the implications of this sweeping exercise of Federal power became clear, the American people's initial hesitation about this provision solidified into an enduring bipartisan consensus that this mandate violates our constitutional commitment to limited government.

The American people came to understand that if the individual mandate is permissible, then anything is permissible.

If the individual mandate is allowed to stand, then there are no effective limits on the Federal Government.

And if there are no limits on the Federal Government, then our constitutional liberties are in jeopardy.

The American people came to understand that the question about the individual mandate runs far deeper than any debate about health care. They understand that the mandate presents us with a pivotal question.

Will we maintain the Constitution as our supreme law, one which puts effective limits on the powers of the Federal Government, or will we abandon the Constitution bequeathed to us by our Founding Fathers and, instead, accept a new constitutional order where the only restraints on the Federal Government are those it deigns to place on itself?

The American people—and certainly the people of Utah—have made clear at every opportunity their deep skepticism about the individual mandate.

Presidential candidate Barack Obama understood these concerns about the individual mandate. The media noted during the Presidential

campaign that while then-Senator Hillary Clinton's plan would require all Americans to purchase health insurance, then-Senator Obama declined to go down that road.

One writer predicted that an economic mandate requiring Americans to purchase a particular product ''would give the inevitable conservative opposition a nice fat target to rally around.''

That nice fat target was an historically unprecedented expansion of Federal power in violation of the Constitution's commitment to limited government.

Unfortunately, President Obama put the politics of health care reform over any concerns about the constitutionality of the individual mandate.

This is how the journalist Ron Suskind explained the President's conversion:

> Obama, never much for the mandate, was concerned about legal challenges to it but was impressed by DeParle's coverage numbers. Without the mandate, the still-sketchy Obama plan would leave twenty-eight million Americans uninsured; with the mandate, the estimates of the number left uninsured were well below ten million.

And so he made his decision.

The President of the United States takes an oath to support and defend the Constitution. As a candidate, and as President, it appears that President Obama was aware of the constitutional concerns with the individual mandate.

But like his progressive forebears, he put his policy desires before the long-term integrity of our Constitution.

Fortunately, the American people were not so quick to put the Constitution second.

Along with a number of my colleagues here in the Senate, I made the case for the mandate's unconstitutionality a priority.

On the first day of the Senate Finance Committee's markup of what would become ObamaCare, I raised doubts about the constitutionality of the individual mandate.

Those doubts were dismissed.

I offered an amendment that would have provided for expedited judicial review of any constitutional challenges to the legislation.

That amendment was ruled out of order.

But the constitutional concerns with this mandate would not be buried.

The people of this country would get their say on this sweeping assertion of Federal power, one far in excess of anything the Founders contemplated.

My State of Utah helped to lead the way, signing on as an original plaintiff in the litigation that is now before the Supreme Court. And I was honored to work with the Republican leader, my friend and colleague, Senator MCCONNELL, in developing friend-of-the-court briefs filed at the trial level, at the initial appellate level, and now before the Supreme Court.

Putting aside all of the precedents, this really is a matter of simple logic and common sense.

Our Constitution is one of limited powers. The powers of Congress are few and enumerated. Yet if this mandate is allowed to stand, then there are effectively no limits on the Constitution any longer.

Something has to give.

Either this mandate will stand or our Constitution will stand.

But both cannot survive this litigation.

The Eleventh Circuit got it right in its analysis of this law. This is what they concluded:

> Economic mandates such as the one contained in the Act are so unprecedented, however, that the government has been unable, either in its briefs or at oral argument, to point this Court to Supreme Court precedent that addresses their constitutionality. Nor does out independent review reveal such a precedent.

The partisan supporters of ObamaCare will say that this is just the opinion of a conservative court.

But it is also the opinion voiced by the liberal writer Timothy Noah as far back as 2007.

And there is some evidence that it was the opinion of Senator Obama when he declined to endorse a sweeping individual mandate when running for President.

But once elected, President Obama put politics first. In the interest of supercharging the welfare state and passing his signature legislative initiative, he put aside any concerns with the individual mandate and endorsed this unprecedented regulation of individual decisionmaking.

The President should have stuck with his original position.

Those who defend the constitutionality of the individual mandate make an astounding claim—that the decision not to buy something, in the aggregate, substantially affects interstate commerce. Those who defend this position stand for the proposition that the Federal Government can regulate your decision not to do something, that it can regulate not just economic activity but economic inactivity, and that Congress can regulate not just physical activity but mental activity.

If Congress can do these things, Congress has no limits.

A Constitution that creates a limited Federal Government has been transformed into a Constitution that gives plenary, and unconstrained, power to the Federal Government.

This is not only something that the American Founders worked hard to prevent, but it is something that contemporary Americans continue to reject.

There are many reasons to oppose ObamaCare. Today, the administration's allies are touting the benefits of the law for small business. This is laughable.

The administration promised that ObamaCare's small business credit would help more than 4 million small businesses. This was a pretty paltry concession to the businesses that would be harmed by the employer mandate, new regulations, and half a trillion dollars in taxes and penalties imposed by ObamaCare.

And as could be expected from such a top-down, Washington-centered approach, businesses have been less than eager to take up this complex credit. The administration claimed that 4 million small businesses would use this credit. Yet according to a report from the Treasury Inspector General, after 2 years, only 309,000 taxpayers, or 7 percent of qualified entities, have claimed this credit.

But as bad as ObamaCare's policies are—confusing benefits, heavyhanded mandates, and enormous economic costs for families and businesses—it is the profound unconstitutionality of the law that remains paramount in the minds of most Americans.

Next week, almost 2 years to the day after ObamaCare became law, the Supreme Court will consider arguments in this historic case.

I am confident that when the dust settles, our Constitution will emerge standing and strong.

And I am equally confident that the American people will have the last word on those politicians who chose to look the other way, rather than acknowledge the deep constitutional shortcomings of this unprecedented intrusion on the liberty of America's citizens and taxpayers.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. ED COULTER

● Mr. BOOZMAN. Mr. President, today I wish to honor Dr. Ed Coulter, who is retiring from his position as Chancellor of Arkansas State University Mountain Home (ASUMH) after 16 years of service and a lifetime of dedication to higher education.

Dr. Coulter devoted his life to education and began his career serving as a public school principal for 3 years. He spent the next 25 years working at Ouachita Baptist University as an assistant to the President and Vice President for Administration before joining ASUMH as Chancellor in 1995.

In his 16 years at ASUMH, Dr. Coulter expanded the campus from a small community college into the innovative institution it is today. His enthusiasm and leadership made him a very effective fundraiser which resulted in the expansion of facilities on the 140-acre campus. Under his watch, the $24 million, 65,000 square-foot Vada Sheid Community Development Center was built, which has become an icon to the campus and community alike.

Along with his commitment to education, Dr. Coulter has worked with numerous professional associations. His roles have included serving as a Chair of the American Association of Community Colleges Board of Directors, American Cancer Society Board of Directors, Arkansas State Chamber