

their own funds, and prevent States from tightening eligibility standards for benefits.

So while the Federal Government is burdening the States with hundreds of billions of dollars in Medicaid liabilities, the President has made it worse by forbidding States from tightening their eligibility requirements as their economies shrink.

The administration and Congress have left Governors with little choice but to cut in other areas, and that usually turns out to be public higher education, where 75 percent of students go to school. So why is tuition going up? The biggest reason is us—Congress, Washington DC. Instead of pointing the finger at States and colleges, we ought to look in the mirror.

There is another problem with the President's proposals. His proposals are not likely to affect many students, and if they do they are more likely to hurt them than help them. Here is why that is true. Ninety-eight percent of all Federal money made available to college students goes directly to the students to spend at one of the 6,000 institutions of their choice.

The President's proposals would only affect three programs of campus-based aid that eventually affects about 2 percent of all students and impacts about 2 percent of all the federal money available for higher education. What the President would propose doing includes putting price controls on colleges offering those programs and saying that students could not go to the institution if tuition goes up too much. So if a low-income student wants to go to the University of Tennessee or North Carolina or Michigan and tuition goes up more than the Federal Government says it should, mostly because of Federal policies, what happens? The student cannot go to the University of Michigan or the University of Tennessee or the University of North Carolina. Those schools have plenty of applicants. They are going to get their students anyway. So the effect will be to make it harder for a low-income student to go to the college of his or her choice.

What should we be doing? I think it is pretty obvious. The taxpayers already are generous with support for students going to college. The average tuition at a 4-year public institution is \$8,200. At a 2-year community college, it is \$3,000. At private institutions, it may be closer to \$28,000 or \$30,000 a year. To make it easier, there are 16 million student loans—\$116 billion in new student loans last year. There are 9 million Pell grants, supported by \$41 billion in taxpayers' dollars. So half our 25 million college students have a Federal grant or loan to help pay for college, and they spend it at one of 6,000 institutions of their choice.

Still, the rising cost of tuition is a real problem for American families. Tuition and fees have soared over the past 10 years above the rate of inflation by 5.6 percent a year at public 4-year institutions. This adds up to about a

113 percent increase in tuition over the decade.

Colleges and universities need to do their part to cut costs. I have suggested that well-prepared students ought to be offered 3-year degrees instead of 4. The president of George Washington University has suggested ways that colleges could be more efficient. He said he could run two complete colleges with two complete faculties in the facilities now used half the year for one. That is without cutting the length of student vacations, increasing class size, or requiring faculty to teach more. Requiring one mandatory summer session for every student every 4 years, as Dartmouth College does, would improve institutions' bottom line. The GW president said his institution's bottom line would improve by \$10 to \$15 million a year. Those are just two good ideas.

There is nothing wrong with President Obama's proposal to encourage ideas like that, even to give grants and put the spotlight on colleges that are trying those things. The Malcolm Baldrige Award for Quality Control years ago did a lot to improve quality in business and government without spending very much. But mandates and price controls on 6,000 autonomous colleges and universities is not the right prescription. They are more likely to hurt students than help. They are more likely to drive up tuition than lower it. And they are more likely to diminish the quality of the best system of higher education in the world.

The reason we have the best system is, for one reason, because generally the Federal Government keeps its hands off those autonomous colleges, and the second reason is that students can choose among those 6,000 institutions with the money we make available to them in grants and loans.

Rather than creating new price controls, new mandates, and new regulations of the kind that have already pushed tuition higher, I suggest the President turn his race to the top around. Instead of heading it towards the States and colleges, head it towards Washington, DC. Stop overcharging students for their student loans, stop requiring States to spend more State dollars on health care at the expense of public colleges and universities, repeal the new Medicaid mandates that in 2014 will take already-high tuition and drive it even higher, and let the Federal agencies compete to see how they can stop adding costs that are the main reason college tuition is rising. That would be the real race to the top. That is the real way to help students afford college.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. HELLER. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. HELLER pertaining to the introduction of S. 2080 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HELLER. I yield the floor.

Mr. HATCH. Mr. President, I ask unanimous consent to be permitted to speak and give my remarks in full.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Utah.

PREVENTIVE SERVICES MANDATE

Mr. HATCH. Mr. President, for some time now Americans have suspected that this administration has lost touch with the American people. John Meacham, the former editor of Newsweek and a fan of the President, explained this detachment by explaining that the President does not "particularly like people." That might be an overstatement, but he is on to something. This administration seems to take its cues from the far left, whether or not they represent the aspirations and hopes of ordinary Americans.

Nowhere is this disconnection from the American people on better display than with the hamfisted decision by Secretary Kathleen Sebelius and the Department of Health and Human Services to require that religious persons and institutions violate their most cherished beliefs or face the consequences.

Late last year, HHS ordered all employers, including religious institutions, to cover in their employer insurance plans such things as sterilization, contraception, and abortion-inducing drugs and devices. With very limited exceptions, religious hospitals, universities, and charitable institutions would face the choice of dropping coverage for their employees or violating their consciences.

The Nation's Catholic bishops and many other religious institutions pleaded with this administration to grant broader waivers to avoid jeopardizing these institutions' constitutional rights to freely exercise religion. But the administration, rather than side with millions of religious Americans who just want to be left alone to practice their own faith, decided to throw in with the most radical of proabortion advocates. They decided to subordinate our central constitutional commitment to religious liberty to a radical agenda that is overtly hostile to all of these people of faith.

The response has been overwhelming. At church this weekend millions of American Catholics were read a letter from their bishops. The message was simple, and it was powerful. This action is unjust and one with which they

will not comply. They are right, and they shouldn't. The first amendment doubly protects religious liberty. It prohibits the government establishment of religion and explicitly protects the free exercise of religion, the first individual right listed in the Bill of Rights. That is how important religious liberty is to America.

In our system of government, such fundamental rights and principles are supposed to trump statutes, regulations, and political agendas. The Constitution and the liberties that it protects are supreme not the fleeting politically driven motivations of any particular administration. Yet the Obama administration, as it has always does, has turned these priorities upside down. In this administration, politics trumps absolutely everything else, even the Constitution and religious liberty. Instead of conforming their political agenda to the Constitution, they distort the Constitution and even liberty itself to conform to their political agenda.

The politicians driving this mandate underestimated the American people who have in succession rejected the sorry efforts by the administration to defend its actions. The administration first hid behind the opinion of a purportedly objective medical group that birth control should be included in health insurance plans, but the American people knew who was ultimately responsible for this rule—not some board of so-called experts but the President and his officers. They tried to minimize this mandate's impact by arguing that many States already have similar requirements. But this was incredibly misleading since nearly all of those States have much broader religious protections. In fact, only three States have religious exemptions as narrow and limited as this new Federal mandate.

They tried to assuage the concerns of religious citizens by saying that the rule does not cover churches and houses of worship, but Americans will not accept only the remnant of our constitutional rights that the President chooses to recognize. Were we supposed to thank the Obama administration for letting us retain a few scraps of religious liberty? There are many religious institutions and organizations that do not fit into the Obama administration's artificial, narrow categories but that just as fully exercise their faith and religious missions. Religious liberty belongs to the Catholic hospital or the University of Notre Dame no less than it belongs to the Catholic Church.

Then, when this simmering controversy broke wide open a few weeks ago, Secretary Sebelius thought she could make it all go away by agreeing not to impose this mandate for another year. Like her boss the President she just plain doesn't get it. Religious liberty is not a bargaining chip or a deal sweetener like premium floor mats or an upgraded appliance. Did she think

Americans would not mind losing this cherished liberty if they were allowed to spend just a little extra time with it?

The Obama administration's attitude toward religious liberty has become "enjoy it while it lasts." And to the administration's surprise, the American people have been less than enthusiastic about this cavalier attitude toward constitutional rights.

The President of the United States takes an oath to support and defend the Constitution, to stand for the fundamental liberty of all Americans. He and the officials responsible for this mandate have fallen far short of this oath.

The fight for religious liberty began before America was born, and it must be fought continually. We can all see that now. It is a part of our constitutional heritage. Our Founding Fathers pledged their lives, fortunes, and sacred honor to defend the principle that all people are created equal and endowed by God with certain unalienable rights. The right for persons and institutions to be free to practice their faith without undue interference by the government is among our most cherished rights and liberties.

There was a day when liberals and conservatives, Democrats and Republicans—everyone—joined to defend liberty. I should know. I was the principal Republican co-sponsor of the Religious Freedom Restoration Act which brought together unprecedented grassroots and congressional coalitions to defend this first freedom. They knew that rights such as religious liberty rise and fall together, that religious liberty cannot be packaged, sliced, diced, and doled out in little pieces to please certain interest groups. We need that same unity today because religious liberty is just as important and, sadly, just as threatened as it was in the past.

In addition to violating the first amendment right to freely exercise our religion, this mandate also appears to violate that landmark law, the Religious Freedom Restoration Act. It burdens the free exercise of religion and is clearly not, as the law requires, a narrow means of achieving a compelling purpose.

Last month the Supreme Court unanimously held that the right of religious organizations to decide who may further their religious mission trumps nondiscrimination statutes. The Obama administration argued that religious organizations are nothing special, that they should have no more freedom from Federal control than, say, a labor union or a social club. In other words, religious liberty is simply no big deal to the Obama administration.

Writing for the entire Supreme Court, Chief Justice Roberts called this a remarkable view of religious liberty, one that is "hard to square with the text of the First Amendment itself, which gives special solicitude to the rights of religious organizations."

Soon the Supreme Court will have the opportunity to rule on the constitutionality of ObamaCare. What the preventive services mandate confirms beyond all doubt is that the constitutional defects in ObamaCare only begin with the insurance mandate that will be before the Supreme Court. There are some other issues there as well, and I hope the Court examines every one of them and overturns this law.

The very DNA of ObamaCare is unconstitutional. At its core, the law and its expansion of government are a threat to personal liberty. The decision to implement this law in a way that forces religious institutions to violate their deepest principles is a vivid demonstration of what happens to personal liberty when the power of the state expands. As the state controls more and more of our lives to further a political agenda, our freedom is put in greater and greater jeopardy.

After 3 years of this administration, the American people seem to be saying enough is enough. Those responsible for this decision to force religious institutions to subsidize health coverage for abortifacient drugs need to be brought to account. The President needs to answer for this. Secretary Sebelius needs to answer for this. The Attorney General needs to answer for this. How could he let this happen?

Let me say, however, that getting answers is not enough. Congress needs to assert its authority as the representative of the American people, stand for the first amendment, and restore religious liberty by overturning this health care law.

For those who are on the front lines fighting this mandate: I applaud your courage, and please understand that you are not alone; you are Democrats, Independents, Republicans, and others. The Obama administration may not care about religious liberty, but the Constitution does, and I, along with many of my colleagues, will fight alongside you until we prevail over this unjust law. This new HHS mandate cannot be allowed to stand, and I am confident that if the will of the American people prevails, it will not stand.

I belong to a faith that has been persecuted and mischaracterized for many decades. We are the only church in the history of America that had a Governor issue an extermination order against its members. That is how bad it got in this greatest of all countries where religious liberty is without question our most valued right. We understand what it is like to be persecuted. I don't care whether one is liberal, conservative, independent, or what, and I don't care what religious beliefs folks out there all have. There is no excuse for this type of heavy-handed, ham-handed, overgovernmentalization of our religious freedom. We simply cannot allow this to stand.

Does President Obama have the guts to stand up for religious liberty? If he doesn't, he should not be President of this United States. If he does, I will be

the first to compliment him for it. It comes right down to the Constitution itself and, in many respects, I believe the most important provision in the Constitution. Religious liberty is something that our early leaders risked their lives to obtain because they were persecuted because of their religious beliefs.

I call on the President of the United States to change this, to acknowledge that this is a mistake, and to understand that we are united—Democrats, Republicans, Independents, and others—in the protection of this great liberty.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BROWN of Ohio). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 1813, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the consideration of Calendar No. 311, S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Well, Mr. President, this is a big day for those of us who believe strongly that we need to focus on job creation, a better business climate, a bill that will, in fact, not only protect jobs but create new jobs. That is the bill we are hoping will get the go-ahead at 2 o'clock, what we call MAP-21, the Moving Ahead for Progress in the 21st Century Act, S. 1813.

This has been—if I could use an analogy that fits—a long road to get to this point so we can, in fact, make sure we have an adequate road system, an adequate highway system, an adequate transit system, and that we make sure, as a world leader, our infrastructure—our bridges, our roads—keep up with the demands put upon them. There are many demands put upon them because we are a great nation with commerce and heavy-duty vehicles on our roadways and railroads that cross over roadways that create potential problems, and, certainly, we have a robust transit system that needs to keep up with the times.

Last night, I received a letter from the U.S. Chamber of Commerce, and I was very pleased to see it because they support the bill Senator INHOFE and I, on a bipartisan basis, were able to get through our committee on a unanimous vote.

It is a rare moment in history, frankly, when the U.S. Chamber of Commerce and labor unions all come together, with everyone on the same page, to say: Let's move forward with a bill. In these days of controversy and debate—and, Lord knows, I am immersed in many of them—this is one where we have been able to carve out a very important consensus, not only in the Environment and Public Works Committee but in the Banking Committee—where Senators JOHNSON and SHELBY work together—to get a piece of this bill done.

In the Finance Committee—where Senators there are led by Senator BAUCUS—they were able to hammer out a tough and important agreement to fund this bill because it has some shortfalls due to the fact that the highway trust fund has been going down because cars are getting better fuel economy—and that is a good thing—but the bad, unintended problem is the trust fund now has fewer dollars, so we run short of what we need to keep our bridges and highways and transit systems going.

So what a moment it was to see not only our committee but the Banking Committee, the Finance Committee, and the Commerce Committee, with a couple of exceptions on a couple of provisions—they did their job as well, and we are trying to work with them to resolve whatever matters remain in that portion of the bill.

But I want to quote from the letter from the Chamber of Commerce that I received last night. I want to share a couple lines with everyone. I am quoting:

The Chamber strongly supports this important legislation. Investment in transportation has proven to grow jobs, and the need for Congress to act on transportation infrastructure is clear.

Another quote:

Passing transportation reauthorization legislation is a specific action Congress and the Administration can take right now to support job growth and economic productivity without adding to the deficit.

Those two quotes I think show we have done our job well.

This is a bill that is paid for. This is a bill that, because of the way it was written, is a reform bill, which I will go into. But it also protects the jobs we currently have, which is 1.8 million jobs in the transportation area, and also, because of the way we have boosted a program called TIFIA—which I will talk about, which is a highly leveraged program—we have the capacity to add over a million new jobs. Mostly these jobs are in the private sector. That is where they are, and that is what we are focused on in this legislation.

I mentioned Senator INHOFE before, my ranking member on the Environment and Public Works Committee. I expect him to be in the Chamber shortly. I cannot tell you of the trusted partnership we were able to develop with him that went not only for his relationship with me in working on this bill, but the staff-to-staff relationships which have blossomed into friendships and trust. I think what we have shown is that each of us can be a tough but fair partner. Our staffs understand where we are coming from. But we have a bigger goal in front of us than our differences; that is, our agreement that it is our responsibility to fix our aging roads and highways and bridges—our infrastructure—to put people back to work, to boost our economy, and, as Senator INHOFE has talked about very often, with examples that are in many ways heart breaking, we have problems with safety in our Nation. We have bridges that are crumbling. We have seen them with our own eyes. We cannot turn away from this because we may have disagreements on lots of other things.

It has been a long but a very worthwhile journey to get to this stage because the payoff here, if this bill eventually becomes law, is, as I said, protecting 1.8 million jobs and creating up to another million jobs.

Again, I want to mention the Commerce Committee. I did not thank Senators ROCKEFELLER and HUTCHISON for their work on this as well. So we have four committees that are involved in writing this bill. Each committee has voted out their bills. If all goes right today, and we get a resounding go-ahead, I hope we begin with amendments on the EPW portion, and then move to add the different other bills to this bill, until we have added all four—all the committees together—and then I hope we will have a resounding vote and get to a conference committee. We have major differences with the other body, but I think we can work them out for the good of the people and the thousand organizations that back us in this bill, in this effort.

I also have to thank Senator HARRY REID, the majority leader. He brought this bill to the floor. He exerted the right kind of pressure on all of our committees. He encouraged us. He understands clearly that, as we try to get out of this recession—and we have seen beneficial results from our actions in a number of areas—this is going to mean a big boost for jobs.

I want to also say that within my committee we have what we call the big four: it is the chairman and the ranking member—myself and Senator INHOFE—and then it is the chairman of the Highway Subcommittee and the ranking member there; and that is Senator BAUCUS and Senator VITTER. So I honestly think if you look at the big four, and you look at our philosophies, and you look at where we are from and the differences we bring to the table, we cover the whole Senate in terms of