

McConnell	Reid	Thune
Menendez	Risch	Toomey
Merkley	Roberts	Udall (CO)
Mikulski	Rockefeller	Udall (NM)
Murkowski	Sanders	Vitter
Murphy	Schumer	Warner
Murray	Scott	Warren
Nelson	Sessions	Wicker
Paul	Shelby	Wyden
Portman	Stabenow	
Reed	Tester	

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Chai Rachel Feldblum, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. COBURN), the Senator from Illinois (Mr. KIRK), and the Senator from Kansas (Mr. MORAN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 39, as follows:

[Rollcall Vote No. 257 Ex.]

YEAS—57

Baldwin	Hagan	Murphy
Baucus	Harkin	Murray
Begich	Heinrich	Nelson
Bennet	Heitkamp	Pryor
Blumenthal	Hirono	Reed
Booker	Johnson (SD)	Reid
Boxer	Kaine	Rockefeller
Brown	King	Sanders
Cantwell	Klobuchar	Schatz
Cardin	Landrieu	Schumer
Carper	Leahy	Shaheen
Casey	Levin	Stabenow
Collins	Manchin	Tester
Coons	Markey	Udall (CO)
Donnelly	McCaskill	Udall (NM)
Durbin	Menendez	Warner
Feinstein	Merkley	Warren
Franken	Mikulski	Whitehouse
Gillibrand	Murkowski	Wyden

NAYS—39

Alexander	Fischer	McConnell
Ayotte	Flake	Paul
Barrasso	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hatch	Roberts
Burr	Heller	Rubio
Coats	Hoeven	Scott
Cochran	Inhofe	Sessions
Corker	Isakson	Shelby
Cornyn	Johanns	Thune
Crapo	Johnson (WI)	Toomey
Cruz	Lee	Vitter
Enzi	McCain	Wicker

NOT VOTING—4

Chambliss	Kirk	Moran
Coburn		

The PRESIDING OFFICER. On this vote the yeas are 57, the nays 39. The motion is agreed to.

NOMINATION OF CHAI RACHEL FELDBLUM TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant bill clerk read the nomination of Chai Rachel Feldblum,

of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2018.

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 8 hours of postcloture consideration of the nomination equally divided in the usual form.

The majority leader.

Mr. REID. Madam President, it is my understanding that if I yield back 40 minutes, the vote will occur at 9 a.m. tomorrow morning.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I yield back 40 minutes of the Democrats' time.

The PRESIDING OFFICER. The time is so yielded.

The Senator from Arizona.

Mr. FLAKE. Madam President, I rise to address the nomination and some other issues.

I want to say a few words about nominations. The Senate just confirmed President Obama's third nominee to the DC Circuit this year, and did so without the support of a single Senator from the minority party.

I have only been in the Senate for a year, but I understand the importance of minority rights and the moderating effect that the minority has on the nominations and on legislation as a whole. Requiring the support of at least some of the minority Senators encourages both the nomination and appointment of more mainstream nominees.

I think in the case of executive nominees, it ensures the heads of executive agencies are responsible to both the minority and majority parties. Minority input reinforces the separation of powers and safeguards the ability of Congress to conduct effective oversight.

Let me give a couple examples of where I think this is important and something we have lost once the nuclear option was employed with regard to executive appointments.

Earlier this year we had the appointment of a person to head the Environmental Protection Agency. It is an extremely important agency. It is important to Arizona—particularly since Arizona has a lot of Federal, State, and public lands—where actions of the Federal Government are perhaps amplified, and so that was an extremely important appointment. I ended up voting for Gina McCarthy. I think she is a good nominee.

I understand that the President won the election, and he has the power to appoint his people and his team. Unless there are extraordinary circumstances, he ought to have that right. I have voted for nearly all of his nominees.

In this case, the head of the Environmental Protection Agency, while she was the nominee she knew she needed 60 votes. She knew she ought to see not just the Members of the majority party but those in the minority as well, and

she made the rounds to my office as well as others.

We had a good meeting. For example, I explained the importance of the dust regulations that are promulgated by the EPA where Arizona has a problem. We have occasional dust storms that are not recognized as such, and sometimes we have to fill out paperwork that is costly and time consuming just to convince the Federal Government that an occasional dust storm does blow through. It has nothing to do with the air quality protections or provisions that have been put in place but just because of the conditions on the ground. The Environmental Protection Agency's guidance and regulations have not caught up to that.

She was understanding of that. She worked at the State level and agreed to talk to the stakeholders and interested parties in Arizona about this issue. She made good on that promise. We had that conference call a few weeks later, and it was the first time that many of these people in Arizona had been heard on the issue. They had a good meeting with the EPA, and I think it will lead to better regulations coming out of the EPA.

That was a product of the process we had here which requires nominees from the President to not just go to the majority party, but to go to the minority party as well. I fear that has been lost, and I think that is a shame. I wish we could go back to the system we had and the system the Senate has operated on for a long time.

When I gave my maiden speech on the floor a few months ago, I mentioned that the party holding the gavel is on a short leash. Bringing even the most noncontroversial resolutions to the Senate floor requires the agreement, or at least the acquiescence, of the minority party. I mentioned at that time that over the past decade both parties have chafed under these arrangements. Both parties have, at times, considered changing the rules that would in some measure make the Senate more like the House. I mentioned at that time, up to that time, that both parties had resisted that urge. They had been convinced by their own Members and others that it wasn't the way to go. Unfortunately, that is no longer the case, and I think this body, this institution will be the poorer for it. I hope we can return to the traditions of the Senate, one where consensus is the hallmark of this body. I hope we can get there.

Let me turn my attention to one of the issues that I think is a good example of what happens when one party moves legislation through this body too quickly, without consultations from the other party. It has to do with the Affordable Care Act. The Affordable Care Act passed with not a single Republican vote in the House or in the Senate. I think it is a good example of what can happen if legislation is rushed through without consultation or input from both parties.

Let me speak about some of the issues that have come up with the Affordable Care Act, better known as ObamaCare. The Wall Street Journal had an editorial the other day that talked about some of the issues that are going on with the enrollment data. It says:

Most of Washington seems to have bought the White House claim that 36 federal exchanges are finally working. . . .

They go on to explain what working really means:

A charitable reading suggests that ObamaCare's net enrollment stands at about negative four million. That's the estimated four million to five and a half million people who had their individual plans liquidated as ObamaCare-noncompliant—

They are liquidated because they were noncompliant with ObamaCare—offset by about 364,682 who have signed up for a plan on a state or federal exchange and the 803,077 who have been found to be eligible to receive Medicaid.

So if we take that and net it out, it means that net enrollment—people who now are covered by insurance of some type—has gone down by about 4 million. I think when we consider things are picking up in terms of people signing up, they are still being dropped far faster from private insurance plans than they are being picked up.

It goes on, this editorial from the Wall Street Journal, saying:

HHS is boasting of enrollment for November that was four times as high as October, yet 62 percent of the total was in the state exchanges, some of which are marginally less prone to crashing than the federal version. Then again, 41 states posted sign-ups only in the three or four figures, including eight states that run their own exchanges. Oregon managed to scrape up 44 people. Among the 137,204 federal sign-ups, no state is reaching the critical mass necessary for stable insurance prices.

One problem they mention as well is that these figures are probably misleading. They say:

A larger problem is that none of these represent true enrollments. HHS is reporting how many people "selected" a plan on the exchange, not how many people have actually enrolled in the plan with an insurance company by paying the first month's premium, which is how the private insurance industry defines enrollment. HHS has made up its own standard.

I think when we find out that there is probably a pretty large dropoff between those who actually enroll and those who actually sign up, then they will realize these figures are misleading as well.

Let me turn to another related issue. Michael Tanner of the Cato Institute had a piece the other day where he said:

The good news, if you want to call it that, is that roughly 1.6 million Americans have been enrolled in ObamaCare so far.

The not-so-good news is that 1.46 million of them actually signed up for Medicaid. If that trend continues, it could bankrupt both federal and state governments.

He notes:

Medicaid is already America's third-largest government program, trailing only So-

cial Security and Medicare, as a proportion of the federal budget. Almost 8 cents out of every dollar that the federal government spends goes to Medicaid. That's more than \$265 billion per year.

As these Medicaid rolls expand, we know that is going to be a huge expense and probably a greater number of people signing up than anybody we thought would do. The Federal Government has committed to pick up 100 percent of the cost of new enrollees for a 3-year period, and then 90 percent thereafter. If the Federal Government makes good on that pledge, it may cost us a lot more than we figured, and it will increase the budget pressure on the Federal Government. If the Federal Government does what it often does and shifts those costs to the States, then the States are going to need to be prepared for a big increase as well.

Mr. Tanner mentions:

State governments pay another \$160 billion for Medicaid today. For most states, Medicaid is the single-largest cost of government, crowding out education, transportation and everything else.

New York spent more than \$15 billion on Medicaid last year, roughly 30 percent of all state expenditures. The Kaiser Foundation projects that over the next 10 years, New York taxpayers will shell out some \$433 billion for the program.

There are going to be increasing pressures on State budgets as well.

So these are some of the things we haven't considered yet.

As we go into the new year, the next big shoe to drop will be in April or so when insurance companies actually see who is enrolling and who is not in the exchanges. I think everyone's fear is that there are too few healthy 28-year-olds signing up and more who are more high-cost enrollees and the numbers just will not add up and the insurance companies will be forced to jack up their rates, which will make insurance even less affordable than it is today and could increase the pressures we are talking about both on the Federal Government, on State governments, and, most importantly, on families across the country.

I found of interest today a story by CNN. CNN looked at four stories after the ObamaCare so-called fix. They concluded in their headline "many are still left out." Let me discuss briefly a couple of these and it gives some idea of what families are facing. This is exactly what I am hearing at home from neighbors and family and friends and exactly what I am experiencing enrolling in the Federal exchange as well—these kinds of cost increases. It reads:

In the face of mounting criticism, President Barack Obama announced last month that he would allow insurance companies to renew so-called "subpar" plans for existing customers. But nearly a month later, not everyone is seeing the benefit of this policy change.

They note that they spoke to four people in the days and weeks following the President's announcement to see how they have been affected. The results were varied, and for some of them the future remains uncertain.

When we read through the stories it seems for everyone it is a pretty uncertain and more costly future.

The first person they talk to is a woman by the name of Catherine. She said it is a 280-percent increase in premiums for her family.

It was in September when Catherine received her letter. The much-maligned HealthCare.gov Web site had yet to be launched and approval ratings for the President's signature health care law were on the upswing.

Catherine knew she would have to sign up for a new insurance plan but didn't expect her options to be so costly. She is a mom and a Navy veteran employed part-time as a nurse. Her husband is a small business owner. Her employer offers insurance plans but because she was not working full-time, getting a policy to cover her family of three was expensive. Unfortunately for her, a provision in the new health care law states that since her company offers plans that she could afford to cover herself but not her family, she does not qualify for a subsidy from the Federal Government, even though she is below the income threshold. She is, therefore, subject to an unusual loophole that requires her to pay the full premium of a new policy if she wants to cover her family or leave her job to get the subsidy.

So we are seeing a huge increase in premiums. She experienced a 280-percent increase in premiums. That mirrors what I have been hearing from others as well.

Greg and Linda live just down the street from me at home. I got an email from Greg, a friend of ours, the other day. He said that he and Linda, who are near 60 years old, had their insurance canceled because it was noncompliant with the new law. They went out and shopped on the exchange and found that the cheapest policy or the policy that most closely mirrored theirs—actually not as good as theirs but most closely mirrored theirs—was double their previous cost to more than \$800 a month. That is what I am hearing again and again and again. When we read through these stories, we see it again and again.

Here is another one, again from the CNN story:

By most people's standards, Valentina Holroyd is in excellent health. She works out six to seven days a week and competes in triathlons with a group of equally high-energy friends. She participates in 10 or 12 races a year. She is a moderate Democrat who hoped that this new law would help people with preexisting conditions such as her husband get access to insurance and would allow people who could not afford insurance to get plans within their reach.

It goes on to say that she had a plan, but then everything changed in October. She was notified by her insurer that her plan could not be renewed for 2014. The comparable plan offered was a 29-percent increase in premiums with higher copays as well as significantly higher prescription drug costs.

The people I talk to, virtually all of them, are saying not only is there an increase in premiums but there are higher copays, higher max out-of-pocket costs. It is just not as affordable as it was before.

I think the fear all of us have is that as we go into the new year and we see the numbers of those who are actually signing up or not signing up, it simply means that rates are going to go up again and again. Once the employer mandate kicks in and a lot of businesses then unload their employees into the exchange, we are simply going to see the same problem. Only those who can afford it or those who are more expensive to insure will be signing up, by and large, and too few healthy individuals to lower the cost for everyone in a high pool, so costs will simply go up again.

We can't have this go on for very much longer. This is called the Affordable Care Act, but I think most of us are finding it is anything but.

Let me just go to one more of these stories while I have time. This is a Connecticut psychologist by the name of Martin Klein, and he is someone who has had plenty of experiences dealing with insurance companies. He has been practicing in the State for 11 years, runs two offices.

Anthem Blue Cross Blue Shield sent him a letter notifying him that his plan would no longer be offered for renewal when it expires in January. They said he needed to shop on the exchange. He goes on to explain that it is simply not as affordable as his old plan.

As we go along in this coming year, we have to find out how we can actually make good on the promise that was given to have health care that is actually accessible and affordable for those who can't access it now. We all know the current system doesn't work very well. It needs to be changed. But change in this matter simply means that more people are uninsured and unsure about the future as well.

I appreciate the opportunity to be here and speak about this tonight and I yield the floor.

The PRESIDING OFFICER (Mr. DONNELLY). The Senator from Wyoming.

Mr. ENZI. Mr. President, good morning, Wyoming. In Wyoming it is midnight right now. I suspect there are people watching and probably wondering what the heck is going on. We are here at this hour dealing with a nonessential distraction, and it is being done so that it is a distraction from the mounting ObamaCare problems.

None of these nominees need to be confirmed, not even the circuit court judges, and maybe especially the circuit court judges. I was here when President Bush tried to fill those circuit court judges in the DC Circuit. And I remember Senator REID and the chairman of the Judiciary Committee making an impassioned speech that they were not needed, that the workload was too low in the District of Columbia, that they should not be approved. Of course, since they were in the majority, they had the capability to ever keep that from happening. But when the shoe is on the other foot, they need those DC court judges, even though the caseload has not gone up.

So they broke the rules to the change the rules, and part of that was so that—we are calling it ObamaCare 2—it was so that the American people would be distracted from the problems they are having signing up for ObamaCare. Some of my constituents ask that I not call it "ObamaCare." They ask that I call it "the Obama tax" because that is what the Supreme Court said was the legal part of it, that we can virtually tax anybody anything we want as long as we call it a tax. If we put it in the Commerce clause, oh, that will not work. But that is the ruling we got from the Supreme Court.

So right now the Democrats are trying to distract us from what is going on across this country; and, oh boy, is it going on across this country. So we should be dealing with the problems of ObamaCare. Each day the health care law is going to fail to live up to the promises made by the administration. How many people have heard the President say—and he started doing this clear back in the joint sessions of Congress so he could explain his law—he said: If you like the insurance you have, you can keep it. That has not been true almost since day one. It especially has not been true since some of the regulations have been put in place.

So we have a failed law. Let me tell you how bad it is failing. A couple weekends ago I got to Cheyenne, WY, early enough to address some school kids. I actually read a children's book to the kindergarten classes of the whole school. After I finished, a little girl came up. She could not have been any taller than that, and she said: Are we going to be able to fix this health care mess? When it has gotten down to kindergartners, you know that the adults are talking about it even more.

It is a problem. It is a problem that needs to be solved. We should not be playing "the Grinch that stole Christmas" and doing a whole bunch of nonessential appointments that could well wait until after Christmas or next year without hurting the courts at all. But, again, they want this outcry. They want this to detract from what is happening with ObamaCare.

Millions of people have lost their health care plans that they were told they could keep. Of course, the President has been forced now to admit that he broke his promise. But he did not remove the promise from the White House health care Web site. A week ago, it still said: If you like your plan, you can keep it, and you do not have to do a thing. I guess that might be partly true because he announced a new initiative that he said would really allow people to keep their existing health insurance plans this time. He should have added, if he wanted to be honest: for a short time. Because that is all he gave them. That is not even true because one thing he does not have the power under the Constitution to do is to rewrite or ignore the law.

We passed a law by this body and the House, and he signed it, and he contin-

ually talks about how that is settled law and you cannot change it. Then about twice a week he changes it without authority, ignoring the written laws passed by Congress.

So it would also mean that he would have to be willing to ignore a 2010 administration regulation that has prevented insurers from continuing to offer insurance for millions of individuals and small businesses. That is right. At the same time the President was promising out of one side of his mouth that people could keep their health insurance, the other side was approving rules that would make that impossible. Everyone who was in the Senate at the time knew it. It was right there in the Federal Register. It was written by the President's own administration. Congress knew and the administration knew the President was not telling the truth. But he kept making the promise anyway.

When one party has 60 votes in the Senate, the minority party has very limited things that it can do. There are a few exceptions to the majority leader's control. But essentially he decides what the Senate can debate and vote on. I have noticed if an amendment comes up that he does not like, instead of having us vote on it, he pulls the bill down.

Now, that is not the way it used to be. We used to be able to put amendments in, and even if the majority did not like the amendment, we still had to vote on it. Of course, if they did not like it, they voted it down. But that does not happen anymore. A number of bills that we have done around here have been prevented from having amendments, and sometimes this negotiation process that the leader uses takes 2 or 3 weeks. The amendments could be voted on in a week if they were just allowed to be voted on. But this process of negotiating so that he can tell the minority what amendments he is willing to address of ours—that takes away the right for us to represent our constituents.

Problems are different in the West. Problems are different in Wyoming. Problems are different in big cities. You cannot have one size fits all that works for everything. The reason there are so many Members of the Senate and so many Members of the House is so that the unintended consequences might be found before a bill becomes law. That has not been the case around here. That definitely was not the case on ObamaCare.

So the leader has helped the majority to prevent us from being able to bring up any amendments on any number of topics, and that has led to what we are doing tonight. We are taking advantage of some of our rights as the minority to see if we are going to get a chance at all. Nobody ever expected one party to be able to dictate to the other party. Of course, the other side did have 60 votes, and when you have 60 votes you can do anything you want because there is no such thing as a filibuster if you can get all 60 votes.

Of course, you probably remember that the majority had to kind of buy some of those votes. Yes, there was the Nebraska “Cornhusker kickback,” and that Senator decided not to run again, and there has been the “Louisiana Purchase,” and that Senator is up for election. There was the Florida deal and the New York deal that dealt with Medicare Advantage. Now, none of the rest of the States got those deals, and they had to be done. Those are places where there are a lot of seniors, and it was going to take away some of their capability for health care insurance that they already had. In fact, the bill stole \$716 billion from Medicare. Medicare is going broke, and it did it to make new programs. It did not do it to fix Medicare.

Tomorrow in the Finance Committee we are going to be marking up a doc fix, a thing so that doctors will be paid adequately, because there was a provision there that will continually reduce the amount they are getting. Of course, as you reduce the amount that a doctor can get, even in times of inflation, pretty quickly the doctors cannot afford to run their practice. When they cannot run their practice, they do not see Medicare patients. In fact, some practices shut down. Others sell out to the hospital. Do you think it is cheaper to get health care from a doctor or health care from a hospital? That drives up the cost again.

So one sure way to inject something not approved by the majority leader is to find an offensive regulation and petition the Senate for a debate and a simple majority vote. We have this thing called the Congressional Review Act, and that is exactly how it works. But you have to keep your eye on the Federal Register because that is where the administration reports what the effects are going to be and what the actual regulations are. Sometimes the regulations have more of an impact than the law itself, and that was the case in this instance. Again, it dealt with this: If you like your health insurance, you can keep it. But there was a regulation that came out in 2010 that took away that right.

Yes, I am the accountant. I read the bills, and now I even have to admit that I read the Federal Register. But there are a lot of dollars that are mentioned in there, and some of those are consequences of the bill. If you can catch one of those regulations within 60 days of the regulation’s publication, and you can get enough people to sign the petition, you are guaranteed 8 hours of debate and an up-or-down vote. If you miss that date, it cannot be brought up again, and once it has been brought up, it cannot be brought up again. So if you lose the vote or you lose the opportunity, it cannot be brought up again. That opportunity is gone.

That is an opportunity that Democrats in the Senate squandered. Every single one voted to defeat my resolution, and many ridiculed the effort.

Over the next few months their constituents are going to make them answer for this. I can tell, some of them are already antsy over it. They are already drafting bills, and, of course, when you draft a bill in the context of a crisis, there is this legislative rule that if it is worth reacting to, it is worth overreacting to.

So, once again, it is not something that will be brought through the correct process and ironed out so there are not unintended consequences. They will have to pay a price. They need to pay attention when there is a rule that is going to affect people adversely. I have heard their arguments. There were a number of issues in this regulation, and there were two that they thought were good.

There is not any reason they could not have voted for the thing, gotten rid of it, and then brought those two back. That is how it ought to work. I really think that Congress ought to have the right to review every major regulation, and if we do not have a majority vote for that regulation, it should never go into effect.

A lot of the regulations are written by the administration. But the direction for doing the regulation comes from Congress. It is to get into a level of detail that we do not handle here, but maybe we should. Maybe that ought to be our biggest job: to make sure that the regulations are what we want to have happen, and to be sure that the unintended consequences are not even in the regulation. We have kind of given that away. But now we need to be sure we take back some oversight over that; otherwise, you have an administration that is a runaway. And that is the situation we have right now.

I fought against the new health care law for the past 4 years because I knew there was no way the President could keep all of the promises he was making about how the law would affect the average American. As an accountant and a former small business owner, I understood that you cannot mandate that everyone must purchase gold plated health insurance plans without increasing costs and causing millions of people to lose their existing insurance plans.

In fact, I have talked about exchanges, and the exchange that is there is not the one that I envisioned at all. I did not expect that the Federal Government would say: There are only four kinds of plans you can buy. You pick it out from bronze to platinum, but if you do not pick out one of our four plans, you cannot have a plan.

We did prescription Part D, and at that time there were only two companies that were providing seniors with prescription drugs in Wyoming. I was a little worried about what was going to happen if we opened the market a little bit. I was hopeful it would cause more competition, and that is exactly what happened. Instead of 2 companies providing the pharmaceuticals, 48 of them

were interested in doing it. That created a little confusion, but there was an exchange that you could go into, and you could list the drugs that you were taking, and when you hit the button it said: These are the companies that can provide that drug, and this is the price that you will have to pay.

Before that went into effect, it saved seniors 25 percent. That is what competition does. That is how the insurance plans should be set up. I have had a 10-step bill since before the President became a Senator that suggested how we could provide insurance for everyone.

Another thing that kind of fascinates me is the President talks about how we eliminated the caps for chronic illnesses so that nobody has to lose their insurance or lose their pay just because they have a chronic illness. Do you know what the flaw in that one is? If you are in Medicare, there are still caps. If you are a senior, there are still caps. We did not remove those. So even that is not a completely true statement.

So there is a little bit more here. If you cannot keep the health plans you like, then you are going to have a tougher time keeping the doctors and the hospitals you like. We are hearing those stories all over the Nation right now. Of course, the biggest problem—and the one that this little kindergarten was raising—was getting on the Web site to even be able to sign up for one of these policies that has more in it than what a family might want, particularly what an individual might want.

There is a lot of discussion on that. But that Web site is just the tip of the iceberg. That is what we have seen so far, the Web site failures. I think a lot of people have noticed that there are some Web site failures out there. In fact, I remember Jay Leno saying: You got to watch these health care sites because there are 700 sites already that are trying to steal your personal information, steal your identity. But he did point out that there is one way to know if you are on one of those phony sites: If you are able to sign up, you are on a phony site.

So, yes, there have been Web site failures. Here is what is coming: higher premiums, canceled coverages, you cannot keep your doctor. If you cannot see your doctor, do you have any insurance at all? I do not think so. And then there is the fraud and identity theft I mentioned and higher copays and deductibles. Pretty universal. There might be a few examples out there of where this has benefited someone, but most of the people are now paying through the nose and finding out that it is very hard for them to be able to afford the insurance they want.

So we should get ready for the next wave of disappointment and frustration from the expectations created by this President and his public relations machine as they come crashing up against the harsh reality of the real world.

ObamaCare casualties will continue to grow even if the President launches media blitz after media blitz—and those cost some money, incidentally—in an attempt to convince people that higher premiums, worse coverage, and a bigger debt for this country is a good thing.

One of the things we were able to get in the bill was a requirement that the Senate and the House come under the same rules as everyone else when it comes to exchanges. That has created quite a bit of consternation around here.

In the committee, it has improved things. I remember that about 4 months ago in the Finance Committee we were having a hearing with the people doing this Web site that has all of the failures. Both sides were asking intense questions because we wanted to be sure this would work.

One of the questions was: How is it coming?

They said: Oh, it is fine. We have already beta-tested it. It will work when it comes to October 1. Everything will work.

Well, I remember Senator BAUCUS saying: Can we get a list of the people who beta-tested it?

To my knowledge, he has never gotten that list because what we found out since is that it had not yet been tested at that time. So would that be considered a lie? I am not sure that all of the hearings are under oath. Maybe they ought to be.

But at any rate, it was not ready. As it turned out, there was 26 hours of beta testing. Talking to some of the other companies that would have liked to have tried to bid for a final project instead of bidding for a cost-plus job—that is what we got, a cost-plus job. Anyway, that complicates it, makes it more expensive, makes them earn more money. Talking to some of those other companies, they said that should have been beta-tested for at least 6 weeks to 6 months. Not only that, they should have had professional hackers trying to get into that system to see what is happening.

We keep having hearings on this issue. I remember at one of them Secretary Sebelius was there. We were asking about the security of the information. I am still trying to figure this out. She said the information goes in there, it pings around to the different people who need it, but none of it is stored on the system. Everybody is saying: So how do you retrieve your records? Well, I guess that is the problem so many Americans are having. They put in their information, they try to retrieve their records, and they cannot get their records. So it is a system that is fraught with a lot of problems and should never have happened. I guess that is what happens when you get in a hurry and you are not ready for it and you are more interested in public relations and media blitzes than you are in getting it right.

I know the President went coast to coast and all over the place and he sent

others trying to convince people that higher premiums and worse coverage and a bigger debt for this country is a good thing.

There was another interesting thing at our hearing. They said the premiums came down. So there were some extensive questions about that because there were not very many people who were aware of any of them coming down. The explanation was that the administration's estimate was that the prices would go up by 68 percent and they only went up by 45 percent. So that was a reduction in rates. No, that was an increase in rates. You cannot fool the American people that way. A lot of this is a smoke-and-mirrors attempt. It is not working.

So what is the opposition doing? We are doing a bunch of judges who do not need to be approved. That is to take the attention off ObamaCare. Well, we are not going to let that happen. The American public deserves to know what is happening with ObamaCare. The American public is concerned about it. We have kindergartners concerned about it. We have a lot of people concerned about it.

In fact, we had a cookie party at our office today. My wife bakes a couple thousand cookies every year. It is for the people who do the real work around the Senate. It is for the janitors and the carpenters and the electricians and the plumbers and the guards and people who work in the restaurants, and they all come by. I was surprised at how many of them were concerned about what is happening with their insurance and their ability to get on it. Some of them even recognized the effort I made in 2010 to get the Congressional Review Act—the only window we had to reverse that lie that if you like your insurance, you can keep it.

So during the health care debate, the President and his congressional allies also promised that the new health care law would reduce health insurance premiums for American families. I covered that briefly. I and my colleagues argued that rather than saving money, the new law instead would drive up the cost of insurance for millions of families. There is no way in there to increase the competition. If you are going to increase the competition, you need to have a sale of insurance across State lines and you need people to be able to go through an association to get a big enough group who can effectively negotiate with an insurance company. There are a lot of ways of getting that to increase. That did not happen. There also were some co-ops that were formed. Now it looks as though the money that went to the co-ops may have been money poured down the drain because apparently they are not doing too well. So the disastrous planning and implementation of the healthcare.gov Web site made it difficult for Americans to learn just how much this partisan law has driven up costs.

We warned, when it was 60 votes that could pass the whole thing, that if the

60 votes passed the whole thing without a single Republican vote, they would be stuck with it. That is exactly where the majority is at the present time—stuck with it.

So people are learning how much their premiums are increasing. The more they do, the more people will not appreciate how the President's promise failed to reflect the reality of the new health care law. I think they really thought they might get to just kind of pick what they needed and find out what the cost was. That was my idea for how we ought to do it. I presented that at the summit with the President. He invited several of us after the bill passed. He should have done it before the bill passed, but he did it after the bill passed. A dozen of us and a dozen Democrats got invited to the Blair House to tell him what we thought should be in the bill. The strange thing about that was every time Republicans threw out an idea, he chopped it to bits. He did not comment on the Democratic ones. At the end of the day he gave a speech he had obviously written the day before because it did not deal with any of the ideas we had discussed on either side of the aisle. He obviously rejected every one of the Republican ideas.

I talked about exchanges and said: You should be able to go online, have a list of insurance possibilities. You could check whatever possibility you thought you needed. One of the things they talked about is if you are a 60-year-old lady who has had a hysterectomy, you probably do not need maternity care, so you would not check that box. But you would check the boxes that you thought applied, that you would really like to have. Then when you hit the "enter" key, it would bring up the list of the companies that would provide exactly what you wanted and tell you what the cost would be. You would not have to sit down with a dozen or two dozen insurance agents and hear their pitch for why they are the best. You would be able to tell what you wanted, and then you would be able to see who provided it and what it would cost. Then you would have choices. That would inspire competition, partly because each of the companies would know what the other companies were selling things for. That sometimes brings prices down as well.

So we had disastrous planning and implementation. People are starting to learn how much their premiums are increasing.

The President and his allies also promised that the new law would improve the economy and protect Medicare beneficiaries. I have often been wondering how that would work. We now know that the small businesses across the country are not hiring workers because of the impact of the health care law and the impact it will have on the bottom line.

I am traveling Wyoming, and I run into a guy who says: You know, I have this great business. It is time for me to

expand. In this town I want to go to, there is a phenomenal location. It is the perfect location and the price is right. Should I expand?

One of the questions that I ask is, How many employees do you have? If he says 45 to 50, I say: I would take another look at it because you better see the effects ObamaCare is going to have on what you are trying to do. In most of those instances, they have not increased. There are a number of problems like that.

I was in a small business committee hearing. I was kind of wondering what "aggregation" meant. That is a pretty big word to use. But they were able to explain aggregation. An aggregation means this rule that if you work under 30 hours, you are considered part time. So we changed it from being under 40 hours to being under 30 hours before it was part time, and that has caused a lot of people to take two jobs and not get benefits from either of the jobs. So they are getting a reduction in pay because of this law.

But here is the kicker. That doesn't help the small businessman anyway. Here is how aggregation works. You have 10 employees at 29 hours; that is 290 hours. You divide by 30, and then you find out that you still have 9 2/3 employees. So by making this drastic cut, you were only able to reduce your numbers by one-third of an employee. Again, that is kind of a fraudulent situation to rope people into doing the ObamaCare thing.

Another way that aggregation works, according to this hearing I went to, is that if you own a piece of one business and you own a piece of another business but you do not own a majority of either of the businesses, the two have to be combined to figure out whether you have employees who come under ObamaCare. That is wrong. That is fraud.

These things ought to be very clear. I think that if we were able to get a vote on raising that part-time work back up to 40 hours, we would see a huge number of people who would vote for it or a huge number of people who would not be around here much longer. Of course, the Small Business Administration says that a small business is not 50 employees, a small business is 500 employees.

So just by changing those two things in ObamaCare, we could probably have more jobs in the economy than the stimulus package ever provided. There are other changes we could make in ObamaCare that would have a bigger effect than the stimulus package. Oh, yes, that is right, that is not a very high mountain to climb, is it?

Another thing we ought to do is eliminate some of the regulations that have been put out there. I know of six regulations that if we got rid of them, it would not affect our way of life, but it would increase jobs and the economy more than the stimulus. We could have an increase in the economy around here, but we cannot do it if we keep

loading up the businesses with more regulations. You know we had a government shutdown not too long ago.

I got an interesting letter from a trucker from Pinedale, WY. He said he was getting a little tired of all of the people who were riding in the wagon and how many fewer people were pulling the wagon. What he is referring to with that is that every time we expand the government, every time we do one of those new programs and put a whole bunch of new people on the payroll—heck, we got a whole bunch more just in IRS people who are supposed to be checking on ObamaCare. If you put them in the wagon and the private sector has to pull it, there will come a point where they cannot pull it anymore.

What he was suggesting was that if we wanted to really find out about America, that the private sector ought to have a shutdown. It would not take 16 days for us to realize the effect of the private market. That is something we have to watch out for because that is where the taxes come from.

Oh, yes, all of us in government pay taxes. None of us pay as much in taxes as we receive in wages. We are riding in the wagon, and it is getting tougher and tougher to pull.

ObamaCare is something that really loaded the wagon with the regulations they have to pull around. It is a tremendous burden. A small businessman can't read the thousands of pages of regulations. Do you know what. They have to.

I was able to get a review committee, and it was over \$1 million in costs in new regulations. That is a very severe committee. They do a very good job. I am pleased with the people who run it. Unfortunately, again we are missing an enforcement piece, so that again the regulation disappears for small businessmen. It is going to be very detrimental.

We try to do these one-size-fits-all things around here, which is what ObamaCare is. Well, it is four-sizes-fit-all. One-size-fits-all or four-sizes-fit-all won't take care of America. This is probably the most diverse country in the whole world and the most successful country in the whole world because it is so diverse. We have so many different kinds of people doing so many different things.

It has also been one of the most innovative countries in the world, and that is where we want to be. We want to be inventing things for the world and having the other countries pick them up when they get a little older and steal them at that point. That is the way it has always worked. But we are taking away the incentives for these people to use their minds to create new things that will sell all over the world the way we are used to it. That is what has brought prosperity to the United States—inventiveness. We invented a new government, and it has worked very well up to now. We have invented all kinds of things from which the

world has benefited. We need to make sure that what we do encourages that instead of discourages it.

This thing that the government knows best—I don't run into many people who think that is right. Most of them think the government doesn't have enough experience in business.

I go back to Wyoming almost every weekend, and I travel to a different part of the State. Over the weekend I try to get into a business or two. I try to find out what they do, how they do it, and, most importantly, how the Federal Government might interfere or help them. It is very valuable. I have found that if a person hasn't been in business, every business looks simple.

We should look at how people look at our jobs. It looks very simple. They don't expect that anybody is going to be speaking at 2:30 in the morning. They think all we do is vote, which is not true. We have to draft bills. But it is more difficult in the private sector than it is in government because people's wages, people's food, and people's housing rely on that business paying them.

Among the small business committee—and I keep explaining that one really hasn't been in business unless they wake straight up in the middle of the night in a sweat, saying: Tomorrow is payday. How do I meet the payroll? That is being in business, and it happens to every small businessman out there once in a while. For some of them, it is the end of that small business.

We have to watch out for those small businesses because those are the ones that grow into big businesses. Those are the ones that become a part of the world market. There is more opportunity for that now more than there ever was, but there won't be if we keep stifling them, if we keep piling regulations on so they spend all of their time reading the regulations that we did. Thousands of pages of regulations are turned out all the time. I read the Federal Register, and it is getting heavier to carry all the time.

We know that small businesses across the country are not hiring new workers because of the impact of the health care law and what it will have on their bottom lines. If they are not profitable, they will be out of business. They are not like the government. They can't spend more money than they have. They don't understand why we don't understand. Why do we keep spending more money than we have coming in and doing it continually? I guess it is because we can sell bonds and we don't think there is going to be any consequence to it. If interest rates go up, we are not going to be able to do even national defense. So we need to be more careful about what we are doing and do things more timely.

Millions of Medicare beneficiaries are going to face reductions in their existing benefits as a result of the billions that were taken from Medicare. That was to fund the new law; it wasn't to

provide more benefits for seniors. Most of the seniors have figured that out. I already mentioned that they have caps on their benefits even though the President promised there wouldn't be caps on benefits. There aren't caps on benefits if someone is out there working in the private sector, which, incidentally, makes it very hard to figure out the actuarial cost of a plan.

It is not quite 2014 yet, and most of the thousands of pages of the new law haven't even gone into effect. But each day it seems there is a new breaking story about what a debacle this health care law is turning out to be.

I received a letter from Jessica in Laramie, who explained how this health care law is negatively affecting her. Jessica's catastrophic health care plan, as a single adult, according to healthcare.gov, is \$297 per month. This is with the premium support from the Federal Government. I repeat, this is with the subsidy.

The University of Wyoming health insurance rate for a semester is \$452. This is over the course of 4 months. The university's rate is nothing new; it was available for students long before the Democrats forced their health care disaster through Congress.

Today, Jessica's premiums would cost more than any of her medical bills to date. Jessica recently fractured her foot—a very common injury—and that cost her less than \$300 in some medical bills. When they start looking at the Web site, they are going to find out that the deductibles have gone up dramatically.

One of the things that has been constrained and in some cases eliminated is health savings accounts. That is the right thing for young people to have. Of course, that doesn't pay for the older, sicker people, so we had to force them out of that system and get them into the regular system with everybody else and compress the prices so that the younger people are paying for the older people. I don't think they are going to stand for that for very long. I think they are going to be upset about it. I think they are already upset about it. Health savings accounts provided them a way to have catastrophic insurance and the right to put money, tax free, into an account that could grow over time and provide for the deductible they have. That is very essential. If they keep putting money in the account tax free and it keeps growing, it might take care of their health care for the rest of their lives. I think it is a solution for everybody. Again, it is one of those where one size doesn't fit all, but it fits a lot of people, and they ought to have that option, but they don't.

Of course, the bill doesn't really allow us to do the flex spending accounts either. That is one where some people have the right, through their company's health insurance plan, to set aside some additional money to take care of health care during the year—again, tax free. Of course, since it is tax free and we want to raise

taxes, we are going to eliminate that. Well, I don't want to. I think that was essential and we ought to have it. But the other side of the aisle decided it was terrible and we ought to eliminate it or reduce it and put extra requirements on it so there was less that you could get with it even though those are individual choices on health care expenditures that a person has to make with their own money.

That is one of the keys to bringing down health care expenditures—have people make their own choices with their own money. If people are making the choices with their company's money or the Federal Government's money, it doesn't make nearly as much difference. If they are not participating in a plan at all and they can get whatever they need and they can go to a very expensive place instead of a less expensive place, that is going to break the system, and that is some of where we are.

I mentioned Jessica's plan and how it is going to go up considerably higher than what her costs are for normal medical. Well, Jessica's mother also works for the State government and she has health care through the State. However, even though she is under the age of 26, Jessica is not allowed to join her mother's insurance plan. That is yet another example of a broken promise from the Obama administration. The President's flawed health care bill is a raw deal for our students and for our Nation.

Jessica said: It feels like the government is punishing everyone for the few people who have health care bills worth more than a house. It isn't remotely fair.

Students are paying the price, and they are realizing it. They know what a bad deal has been foisted on them.

Karen from Cody contacted me because her construction company had to drop their Blue Cross Blue Shield health insurance plan. Why? The President's flawed health care plan mandates health care coverage for full-time employees who work more than 90 days for the company. The company was already providing health care plans for their employees, and now these folks can't keep the health care plan they like. Their employees are mostly young Americans, and they are trying to make their budgets work. They couldn't afford to sign up for health care plans that would reduce their pay. As a result, all of her employees will have to seek individual policies in 2014. Karen also said there is a lack of information on insurance plans. She doesn't know what doctors and what medical facilities will be included or even available in any health insurance plan next year. Karen is upset. I am upset too.

I have said for 5 or 6 years that if a person can't see a doctor, they don't have any kind of insurance. And that is what we are running into. Doctors are changing the way they operate, and they are saying: If you are on Medicare, I don't think I will be able to

take you. We have problems with doctors who deliver babies because of the long tail on their potential liability, which goes until the child is of age. That creates a lot of other costs, but that is a different story.

It is time for Congress to heed the calls of the majority of Americans and repeal this partisan law. That isn't going to happen unless ordinary Americans continue to speak out and demand those who brought them ObamaCare keep their promises, every one of them.

I can go on about health care much more, and I may come back to it, but I am going to talk about the budget deal because I am a little upset about that.

One of the problems we have is that we are now in a mode of making deals instead of legislating. This body isn't designed to make deals, to send half a dozen people to solve a problem or, in this case of the budget deal, 2 people—one from the House and one from the Senate. Everybody else feels as if they ought to have some input. No—everybody feels their constituents should have some input, and that is what we are missing.

We send 2 people, 6 people, or 10 people to come up with a deal, we set a date so the media can crescendo up to that point, and then they bring us what the budget deal will be and we vote yes or no. We don't get to do any amendments. That is not how we are designed, and that won't work either.

I would like to talk about the recently announced Murray-Ryan budget deal. I hoped we would have an open process to finally come up with a solution to our Nation's spending problems, but that didn't happen. Instead, we have another backroom deal put together by two Members. That is bad for our country. It is tough on those individuals. They worked hard and came up with something, but they didn't have all of the input from everybody. That makes it difficult too. It is usually done through amendments—amendments that are debated and voted up-or-down. But that doesn't happen anymore.

This budget deal increases spending and shows that one thing Democrats and Republicans can agree on is putting off the tough decisions. We can't keep on doing that. I just showed how we are piling it onto the young with ObamaCare. Now we are piling it onto them with the budget deal. Every man, woman, and child out there—a child who was just born today already owes \$50,000 in national debt. How would you like to carry that burden around and then be looking at student loans?

Incidentally, student loans were a part of paying for ObamaCare. People probably heard the controversy where the rates were to go to 6.88 percent. At that time the Federal Government was paying .86 percent for interest, so that other 6 percent was to go to help fund ObamaCare. But the students found that out and said: That is not fair. The President said: Yes, it is not fair. We

are going to change that. We are going to knock it down to 3.44 percent. Well, that is still 3 percent the students are paying on ObamaCare. But the real kicker is that it was just extended for 1 year and it was only extended for 40 percent of the students attending college. That is wrong. When it came up the next time, several of us got together and did a little bill. That bill makes it more fair for 100 percent of the kids going to college. We set it as a slight fee above whatever the Federal Government is borrowing the money at. What that fee is when you enter into that loan will be the price of that loan for the life of the loan, and it will apply for 100 percent of the individuals. So we found a way, and it actually passed. I think everybody was relieved, although we have this habit around here of wanting to hold people hostage 6 months at a time. That is what we have been doing on the doc fix for quite a while.

But to get back to the budget deal, the plan does spend more than the current law. It charges people in States for more things and uses the money to increase the spending in nonrelated areas. Spending cuts are scheduled for outlying years. We say: Oh, yes, we are going to cut that stuff, but we are going to do it on the end of 10 years, but the so-called savings from that are used up right now.

Is there anybody in America who can go ahead and spend their future earnings now and not have to do it on the other end, when it actually comes due? That is what we have been doing for far too long. Those spending cuts are scheduled for outlying years and are called savings but are used up right away, and that just isn't real. Let's call it what it is. It is not real, and it is wrong.

This bill has a lot of problems. It again raises rates for premiums that private companies pay the Federal Government to guarantee their pension benefits. I worked on a bill—the Pension Protection Act—several years ago, and the goal of that bill was to make sure companies that promised people pensions would result in people getting pensions. We wanted to do it without putting the companies out of business because then it falls on the Federal Government with this Pension Benefit Guaranty Corporation.

Two years ago, we raised the rates, and the PBGC could use the money, but that isn't where the money went. We put it into highways for 2 years. Ten years' worth of money, 2 years' worth of highways. Now we are raising that pension guaranty again by \$200 per person. How many companies do you think are going to keep their pension plans?

People might not be aware that pensions are voluntary in this country. They are not mandated. They are voluntary. Fortunately, there are a lot of companies that realize the value of maintaining their employees and so they have pension plans and they

worry about those pension plans. They want to make sure they are going to be solvent so they can provide what they need to. They are liable for it. So it is wrong for us to increase a tax to say we are going to help make sure those are more secure and then the money never goes into the fund that insures it. Let's see. Should that come under the category of fraud?

So those savings from these rate increases will be spent on Federal discretionary programs, and employers are still in the process of implementing a \$9 billion rate increase to pay for the highways in last year's transit bill. So to put it simply, over 2 years the flat rate premium will have increased 40 percent, and over 3 years the variable rate premium will have increased over 100 percent.

If you are in business and you are looking at a 100-percent increase in your pension costs, you have to take a look at it and say there has to be a different way we can go, and that is going to mean a lot of people are not going to have pensions. They will have the pensions they have been promised to that date but not the pensions they were looking forward to at the time they retire. That is a huge tax and it will cause companies to end their voluntary pension and their retirement plans.

These pensions are completely voluntary, and if the cost to keep them goes up, companies may have to re-evaluate. Workers and their families will be forced to find other ways to save for retirement due to this increased tax on companies.

There isn't anything else you can call it. I notice they are trying to call it a fee. The definition of a fee is if you don't participate, then you don't have to pay it. But that isn't what we are trying to do. We are trying to have companies provide pensions. We are not trying to have them realize they can't afford the pensions they are giving out because of increased charges by the Federal Government. So that is wrong.

Under this budget deal, they are again telling Wyoming, Montana, Utah, Colorado, New Mexico, and other States that allow for the production of minerals on their land that the Federal Government deserves more than half the revenue. Under Federal law, States are entitled to half the royalties collected by the Federal Government for energy production on their lands. To distribute the State's share, the law intends for the Minerals Management Service to divide the amount of mineral royalties collected by the two and to write a check for that amount and mail it to the States. But an even split isn't enough under this new budget. In an attempt to satisfy an insatiable appetite for spending, the budget bill plans to take more money away from our States—about \$40 million each year.

We had an interesting situation this last year when they did the sequester. The Federal Government said: OK. Our half of the money when it comes in is

revenue. Your half of the money when it goes out is an expenditure. Therefore, we need to take the 5.3 percent out of that. When we heard that, we started passing a bill around and getting a lot of traction on it from both red and blue States saying: That is wrong. You can't take our money away. If you are going to take something out for sequester, it at least ought to come out of both halves, but it definitely doesn't deserve to come out of what is by law money that belongs to the State.

We raised enough furor, and it looked like that bill could pass—and I am sorry we didn't go ahead and pass it. The Federal Government decided they were wrong, so they have agreed they are going to pay back that 5.3 percent they stole from the States. But this budget puts about another \$40 million each year in there that the Federal Government is going to keep out of the State's half. That is money the States use for roads, for health care—yes, health care—education for children and more efficient environmentally friendly development of our energy resources.

It is money that finds its way directly to the people, not down some bureaucratic black hole. A disproportionate share of this funding—about \$20 million—comes from my home State of Wyoming, which supplies a disproportionate share of energy to this country. Yet the Federal Government still wants more. Unlike bureaucrats, we have to answer to our constituents. Mine are telling me they do not want the Federal Government to take any more of our State's money. I am sure my colleagues will hear the same thing. Whenever you have some money, they are saying: OK. The States are rich now, compared to the Federal Government, and that is true for almost every State. So they are planning on how they can steal money from the States and give to it the Federal Government.

Worst of all, the so-called budget conference committee, for all practical purposes, did not exist. The agreement was the sole product of one House Member and one Senate Member. I sat on the conference committee, but I can tell you that I am hearing the particulars of the deal at the same time as the public. They weren't part of the process or the negotiations and neither were we. We did have a meeting to begin with, and everybody got to give statements for how they thought this deal ought to go, but there were no further meetings of the conference.

Any conference I have ever been on, once there was a deal made, you met again and you got an explanation of the deal and then all the sides voted. If it didn't receive a positive vote in the Senate and in the House, it wasn't passed on as a conference that was finished yet. You went back to the drawing board again.

I guess we are in a crisis here and decided we had to do something in a

hurry, but that is the worst of all worlds when you do that. We were not a part of the process or the negotiations, and it is not the way this body was designed. Conference committees have a definite purpose.

Actually, the task should not have even been assigned to the Budget Committee. The task should have been assigned to the spending committees. We were at the point where in the calendar business there are already bills that the appropriators—the spending people—have put together for all 12 items. Those could have been brought up one at a time, probably would take 1 week for each of them, if amendments were allowed, and we would have wound up with a pretty good budget, in pretty good standing.

Of course, I am kind of fascinated. We are about to January, and in January I will have dozens of people visiting me. It is a long trip from Wyoming to come out here and they will come out here on individual programs of the Federal Government and they will say: Please, this is how important this particular program is. Please make sure we get funding for it.

One of them is Head Start. They actually think we get to look at the Head Start budget and make additions or subtractions from it. We don't even get to look at Health and Human Services or transportation or any of those. They all get lumped together sometime in the year. There is no oversight. There are no decisions by the main body on how to spend \$1 trillion a year. That is the wrong way to do it.

So this is a symptom of the abandonment of the committee process. Instead of Representatives and Senators offering constructive amendments and debating spending bills in public, a couple of people and their staffs sit in a room and then present a take it or leave it right before a holiday or a manufactured crisis deadline.

We are going to have that yet on the Omnibus spending bill. Right now we are just doing a continuing resolution and allowing those agencies to spend one-twelfth of what they spent the year before, essentially. So they do not know what they get to do for the rest of the year. When the sequester hit, it was supposed to be 2.3 percent, so they had to take those cuts out of the last 4 months. The result was they had to take 5.3 percent out.

I mentioned Head Start. They came to me and they said: We can't afford to have a 7½-percent cut every year. I said: Where did the 7½-percent come from? They said: That is what we are being cut.

It looks to me like what happened is the bureaucracy in Washington took their 5.3-percent cut but stole 2.3 percent from the local folks in order to pay for the Washington bureaucracy. So it was the kids who suffered. The kids didn't get the money. More kids had to be taken off the roll instead of more kids put on the roll. If it is going to hurt, it ought to hurt in Wash-

ington. It shouldn't hurt out there where the kids are.

I have some solutions for it. One of them is the no government shutdowns. The way that would work is if those spending committees don't have their work done by the time they are supposed to, which would be October 1, each spending committee would have to take 1 percent off of what they are allowed to spend each quarter until they actually get their work done. I think that would be a little incentive for them to get their work done.

I also have a penny plan. A penny plan would cut one cent off of every dollar the Federal Government spends. That in conjunction with the sequester would balance our budget in just 2 years—just 2 years. That would be 3.2 percent for 2 years. I think the people would say: You know, that wasn't too bad—provided we didn't make it hurt.

That is one of the terrible things about government. They always like to pick the things people will notice, instead of eliminating things such as duplication. There is plenty of duplication out there. There is \$900 billion a year in the Federal Government in duplication. We ought to be able to eliminate half of duplication, shouldn't we? That would be a better deal than the sequester. But we don't do that. We make it hurt. We want people to notice their item is being cut and then they complain and then we restore it and that is how you get to \$17 trillion worth of debt.

But with the penny plan everything would be on the table. It would have flexibility so it didn't have to hurt. We could get rid of that duplication.

Then, of course, I am also proposing a biennial budget. The way that would work is we would appropriate for every agency for a 2-year period so they know what they are doing for 2 years. They could actually do some planning. We shouldn't wait until we are 8 months through the year before we tell them how to spend their money for the last 4 months.

I have a little twist in my biennial budgeting. I would split the 12 spending bills into 2 categories. Right after an election, that year we would do the six bills that are tough, and then the next year we would do the six bills that are easy. Then we would actually be able to look at those individual items, and then a lot of these things that come up on the floor as extraneous amendments to other bills wouldn't need to be done because they would be done with the spending part they are supposed to do.

So those are a few plans right there. We do have a spending problem. We don't have a revenue problem. We shouldn't raise taxes in order for Washington to spend more. We can't spend our way to prosperity. That is more people getting in the wagon and less people pulling the wagon.

Identifying a process forward for tax reform is where part of the effort for the budget conference should be focused. If done correctly, tax reform

will help to generate additional revenue through economic growth. Let me repeat that—not through new taxes but through economic growth to reduce the deficit and pay down the debt, and I am ready to make that happen.

We need to prioritize spending. Find the spending cuts that do the least harm and start there. It has worked in Wyoming. Our Governor knew he might be having an 8-percent cut in the revenues the State was going to get. So what did he do? He got ahold of all the agencies and said: I want to know what you would cut if you had to cut 2 percent; what you would cut if you had to cut 4 percent; what you would cut if you had to cut 6 percent; and what you would cut if you had to cut 8 percent.

Why did he do that? That gives him four lists to look at and he can see what that agency thinks is the most important to cut. What would be the least hurt to cut. That is exactly what they did. They wound up having to do a 6-percent cut and there wasn't a whimper. We could do that too.

I sit up nights worrying about our Nation's debt and how it will affect Wyoming children, my children, grandchildren. There is a chance to apply reasonable constraints to impossibly high future spending, but instead we get more spending and no plan to solve the problem.

America wants a plan. There is nothing as universal as that. They tell me every time in Wyoming: We have got to quit spending more than we take in. I agree. Congress should have been working on Federal spending bills and a responsible budget for months, and the Senate majority put that work off.

I could go into some things on the Defense bill. I have a lot of things here, and over the next few days I will be talking about these. But what we are going through right now is, instead of these things that are really important to the American people and will really make a difference in their lives, we are working on judges which doesn't make any difference. There are plenty of judges out there already. But that is to detract us from these problems of ObamaCare and a budget. We have got to solve the real problems and quit worrying about whether the judges can be stacked in the District of Columbia so that the President can have his way. That is wrong.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MURPHY). The Senator from Utah.

Mr. LEE. Mr. President, I first thank my distinguished colleague, the senior Senator from Wyoming, who is a good friend and a fine example to all those who know him. People from both sides of the aisle can learn and benefit from my friend from Wyoming who, as a businessman, later as a mayor, as a devoted husband and father, has served his country well and has served his colleagues in the Senate well.

His remarks on the Senate floor tonight have been especially insightful, and I have learned something from him

this evening as I do every time he speaks. He is one who reached out to me shortly after I arrived here in the Senate and has always shown to me great kindness. I have always been grateful for that, and I look forward to continuing to work with him in the Senate.

What is happening in the Senate right now is more than just an attempt by the majority to end debate on nominees. It is an attempt to shut out the American people from the political process.

President Obama and the majority party in the Senate are so dedicated to enacting their progressive agenda that they will do anything, even if it means running roughshod over the minority and ignoring the will of the people.

Our Founding Fathers drafted the Constitution to prevent this sort of thing from happening and to protect the rights of all Americans. They devised a constitutionally limited government, with a system of checks and balances, so that no one branch of government would wield unlimited power. The whole idea of this system was to prevent the excessive abrogation of power, the excessive accumulation of power within the hands of a few.

Under our Constitution, the President's representative function is to faithfully execute the law and not to make it. Congress as a whole alone makes the laws, including a deliberative Senate whose majorities reflect minority views. Senate Democrats' recent actions are an assault on republican institutions and on the protections that they provide to all Americans.

The current administration and Senate Democrats view the Constitution as an impediment to the enactment of their agenda. This is why the President illegally amended the Affordable Care Act—a law passed by Congress—through executive action instead of asking Congress to amend it. It is also why Democrats are willing to break the rules of the Senate in order to change the rules of the Senate so that they can more quickly, more easily confirm the President's nominees.

Make no mistake. The executive and judicial nominees we are considering will be tasked with implementing and upholding President Obama's agenda. Congress is a representative body and is the only branch of government given the constitutional authority to make laws. We represent the people. When the President illegally changes the law or when he tramples on the rights of the minority in the Senate, he guarantees that the people will have no voice and no representation. These are not trivial matters. These are not matters that we can casually cavalierly cast aside. These are matters of great importance.

We have to remember what happened just a few short months ago, when we were told on July 2 of this year that President Obama had decided to change the Patient Protection and Affordable Care Act in several meaningful ways.

This of course was a law that was passed without consensus. It was passed without any semblance of bipartisanship. It was a law that was passed without a single Republican vote. Not a single Republican voted for it in the Senate; not a single Republican voted for it in the House. All 2,700 pages of this law—a law that wasn't read before it was passed, a law that we were told Members would have to pass in order to find out what was in it—this law took effect. Over time, as the American people learned about the law's contents, they didn't grow more favorably predisposed toward the law.

The law has in fact never enjoyed the support of a solid majority of Americans, but over time its popularity has tended to diminish. Perhaps seeing this, President Obama on July 2 of this year chose to wield his executive pen in such a way as to amend that law.

He chose, among other things, to announce that although the law contains a number of deadlines, a number of start dates, that he would not be enforcing the employer mandate in the Patient Protection and Affordable Care Act. He would of course still be enforcing, as of the January 1 start date, the individual mandate. But he would not be implementing or enforcing, at least for the first year of the law's full operation, the employer mandate. Of course, he had no authority to do this. The Constitution sets in place a system for making law.

In order to become law, a legislative proposal has to make its way through the House of Representatives, has to make its way through the Senate, has to be passed by most of the people in the House and in the Senate, and then it has to be presented to the President consistent with article I, section 7, clause 2 of the Constitution before it may become law.

But of course, once it is law, it is law; and a law passed under one administration can't simply be vetoed or fundamentally altered by a subsequent President. In fact, it can't be vetoed or subsequently altered by even the same President who signed it into law in the first place. And yet, that is in some respects exactly what happened here.

The President modified the law. He was too impatient, too unwilling—too unwilling to defer to the legislative branch, too unwilling to respect the oath that he took to uphold, protect, and defend the Constitution from all enemies, foreign and domestic, too disrespectful of that very document, our founding document that has fostered the development of the greatest civilization the world has ever known. Too unwilling to defer to that document in order to follow its most basic precepts and its most basic commands.

He suggested that he needed to do this because the law wasn't ready to be implemented. He later suggested that he did this because he had to do it because, as he put it: Under normal conditions, under more ideal conditions, obviously the thing to do if you wanted

to change the law would be to go back with that branch of government charged with making the law—that branch of government which passed it into law in the first place—Congress. But, as he pointed out, these are not ideal circumstances.

No, they are not ideal. Not ideal, because he controls only one division of the legislative branch of government, the Senate. The Senate is under the control of his party and the House of Representatives isn't.

This can hardly justify this kind of blatant usurpation of legislative authority. This can hardly justify a President taking upon himself the sole task of changing legislation. It is in fact an act of legislation unto itself. Yet this is what he did by a stroke of the executive pen. This is exactly what the Founding Fathers tried to protect against, this kind of unilateral action by the executive, this kind of accumulation of power in the hands of the few—or, in this case, the hands of one person. Yet this is what he did, and he has done it on several occasions.

Some people have suggested that if what the President did was wrong, if it was unconstitutional, if it wasn't authorized by the Constitution—which it wasn't—if it wasn't authorized by an act of Congress, either the Affordable Care Act or some other statute—and it wasn't—then perhaps the courts can and should and must and will remedy the constitutional problem embodied in that act. There are some problems with that.

First of all, as we all know, not every unconstitutional act can necessarily be remedied in court. Many unconstitutional acts are themselves outside the purview of the Federal courts' ability to review. In some cases, an unconstitutional act might be something that the courts consider a nonjusticiable political question, not subject to the court's authority, or something that the courts aren't willing to wade into.

In other circumstances, an unconstitutional act might occur in a situation in which no one party is likely to be able to develop and establish article III standing in order to challenge that unconstitutional act.

In order to establish article III standing—in other words, in order to establish the right to sue in Federal court—article III of the Constitution requires that the plaintiff be able to establish that the plaintiff has suffered an injury in fact, an injury in fact that is fairly traceable to the conduct of the defendant, and, thirdly, that it is subject to redress by the authority of the court.

In this circumstance, one must ask the question: Does anyone really have standing? Can anyone really establish the kind of standing in order to challenge the President's refusal to implement and enforce the individual mandate while refusing or declining to enforce and implement the employer mandate of the Patient Protection and Affordable Care Act?

Who has standing to do that? Who has been harmed by that? One could

suggest, I suppose, that an employer might want to look into that. But when they would examine the situation, most or all employers would probably have to acknowledge that they have been given a reprieve. So employers, No. 1, are not likely to be aggrieved by it in the sense that they are not likely to feel the need to sue; and, No. 2, if they were to try to sue, it seems to me they would have a very difficult time establishing in a court of law the fact that they had suffered an injury in fact.

Who else might do it? Most constitutional scholars would conclude—probably correctly—that a Member of Congress would lack article III standing under the applicable Supreme Court precedent, *Flast v. Cohen* and other Supreme Court precedents. Merely being a Member of Congress is not necessarily enough to give a person article III standing.

So I think it is very difficult to reach the conclusion that anyone—at least obviously—has article III standing to sue.

So we cannot necessarily rely on the courts to be able to undo this constitutional damage, to be able to seek an adequate remedy in a court of law for this blatant insult to the U.S. Constitution. Even if they could, moreover, even if somebody could establish article III standing, even if somebody could come before an article III Federal judge and convince that judge that they have standing, would that Federal court be in a position to dispose of this case within the roughly 1-year period in which this provision of the law is effectively suspended? It takes a lot of time to litigate a case all the way through to completion, and I think it is doubtful whether somebody would be able to bring an action in Federal court and have it be fully litigated all the way through to judgment in the roughly 1-year period in which it would still be relevant.

If you could not get it done in that time period, then it would appear very likely that the case would be rendered moot at that point. So this, quite simply, is the kind of case in which no Federal suit is likely to be brought and if one is brought it would likely fail. So that is yet another reason why we as a Congress ought to be looking very closely at this, you see, because this is one of those many instances in which it is possible that someone can violate the U.S. Constitution, here the President of the United States, without the courts being in a position to effectively remedy that constitutional defect.

We too as Members of this body have taken an oath to uphold the Constitution of the United States. In my mind, that means doing more than simply refraining from that which the Supreme Court of the United States would obviously invalidate. To my mind, that means more than simply saying: If someone has violated the U.S. Constitution, then I am sure the courts will take care of it. We simply know

that is not true. We know that in many circumstances—and I have just outlined a couple of them—the courts are not in a position to be able to remedy a constitutional defect, to be able to remedy a blatant insult to the Constitution and an absolute violation of the Constitution's provisions.

So we need to continue to hold this President accountable when he fails, quite blatantly in this circumstance, to do that which the Constitution requires. This is a question that I think is particularly important, not only in light of how this particular act of Congress came to be, not only in light of how it was enacted and the fact that it is 2,700 pages long, that it has now resulted in 20,000 pages of regulatory implementing text but also in light of the fact that it was challenged in court; that is, the Patient Protection and Affordable Care Act was challenged in court as to its constitutionality, but it was upheld by the Supreme Court of the United States in a most unusual fashion. Let's talk about that for just a moment.

A number of States and a few others banded together and challenged in Federal court a few years ago Congress's power to enact certain provisions of the Patient Protection and Affordable Care Act. Among those provisions that they challenged were the individual mandate. The argument was Congress lacks the power asserted by Congress in the Affordable Care Act, pursuant to article I section 8 clause 3, the commerce clause, to tell individual Americans that they must buy a product—health insurance; not just any health insurance but that specific kind of health insurance that Congress in its infinite wisdom deemed absolutely essential for every American to purchase. The challenge asserted that Congress lacks this power under the commerce clause.

The lawsuit also alleged among other things that Congress lacked the power to tell States that the States had to expand their Medicaid Programs and gave the States no choice; that this, too, violated the Constitution, that it exceeded certain limitations on Congress's power because the courts have long recognized that Congress lacks the power to commandeer the States' legislative and administrative machinery in order to carry out a Federal program.

Congress has the power to encourage States, to ask States to do this, but it lacks the power to direct a State to do X or Y or Z. We cannot just tell a State to do something just because we want it to be done. We might be able to persuade the State to do something. We might even be able to fund the State, to offer funding in case a State wants to participate in a given program, but we lack the power to dictate to States that they do such a thing.

In this circumstance, the Patient Protection and Affordable Care Act was unmistakable in its clarity. It simply told the States they had to expand

their Medicaid programs in the fashion outlined in the Act itself.

So these two core pieces, these two core aspects of this judicial challenge made their way up through the Federal court system, made their way up to the Supreme Court of the United States. The Court decided these two issues, as I said a moment ago, in a most unusual fashion. Turning to the commerce clause issue, the Court addressed that issue right after addressing another issue that was sort of a jurisdictional question, an introductory question. The Court had to determine first of all, before it even got to the merits of the constitutional challenge as to the individual mandate in the Affordable Care Act—it had to address the question of whether the individual mandate and the enforcement mechanism attached to it could fairly be characterized as a tax, for purposes relevant to the so-called anti-injunction act, a Civil War-era statute that basically says that any time someone wants to challenge a tax in Federal court they have to wait until such time as that tax is actually being collected. Then that challenge is brought as against the attempted enforcement of the tax statute.

The Supreme Court of the United States, using centuries' worth of jurisprudence, looked at the language of the Patient Protection and Affordable Care Act, it looked at the manner in which it was written, and easily concluded, no, this is not a tax. This is a penalty. Because it is a penalty and it is not a tax, we, the Court, may proceed to consider the merits of the arguments brought up in this case, the merits of this challenge brought as to Congress's authority, *vel non*, to enact something like this, the individual mandate under the commerce clause. So the Court quickly dispensed with that issue and reached the merits of the constitutional question before it.

The Court then went on to conclude that Congress does, in fact, lack the power under the commerce clause, under article I, section 8, clause 3 of the Constitution, to tell individual Americans they must buy a particular product, health insurance; not just any health insurance but the specific kind of health insurance that Congress told the American people they have to buy in the Affordable Care Act.

The Court fairly easily and, in my opinion, correctly, decided that Congress lacks that power because of the fact that the power Congress has to regulate interstate commerce is meaningfully different than the power to compel individuals to enter into commerce, to regulate inactivity, to punish inactivity, to punish the failure to buy a particular product that the people might not want to buy.

You see, for a long time we had this understanding as Americans that the power given to Congress was in fact limited. We look at all the authorities granted to Congress under the Constitution, the overwhelming majority of which can be found in article I, section 8. All of these were limited and

they were limited with good reason. They were limited with good reason because that played a very large part, that played a very significant role in how and why we became a country.

We broke away from Great Britain, not just because we grew tired of having a monarch but because we grew tired of the authority of a parliament—a parliament that not only refused to grant us any representation but also a parliament that refused to acknowledge any natural limit on its power to regulate us, and it did in fact regulate us and it regulated us heavily, mercilessly. It taxed us overwhelmingly and it refused to recognize any meaningful—failed, refused to recognize any meaningful limit on its own authority.

That is one of the reasons we became our own country. That is one of the reasons the Founding Fathers put in place this system in which our national legislative body would be vested with only a few specifically listed or enumerated powers. The founding generation understood that each of those powers would in fact be limited, so much so, in fact, that James Madison described the powers given to Congress as few and defined and characterized those reserved to the States as numerous and indefinite.

During the first 140, 150 years or so of our Republic's existence, we as a people continued to recognize the necessarily limited nature of Congress's power. Much of that started to change during the New Deal era in which President Franklin D. Roosevelt, with the assistance of Democratic majorities in the House and in the Senate, pushed forward with a very progressive agenda, one that expanded not only the role of government in general but also the role of the Federal Government in particular.

Initially, the Supreme Court resisted and the Supreme Court acknowledged the fact that the powers granted to Congress under the spending clause and the commerce clause were, in fact, limited. But the more FDR and the more Congress pushed back against the Supreme Court, the more the Supreme Court seemed inclined to relent. Ultimately, we saw the Supreme Court of the United States back down in the late 1930s from its what had been previously more rigorous, more restrictive interpretations of the spending clause and of the commerce clause.

The Supreme Court ended up adopting a set of rules that would basically say that as long as Congress was acting broadly within the field of what could be loosely considered a regulation of interstate commerce, that the courts would stay away in second-guessing Congress's determinations.

The Court, starting out with a case called *NLRB v. Jones & Laughlin Steel* in 1937 and culminating in another case 5 years later in *Wickard v. Filburn* in 1942, ended up concluding that Congress may, without interference from the courts, regulate any activity that when measured and evaluated in the

aggregate, has a substantial effect on interstate commerce. Regardless of whether the discrete activity in question might actually occur entirely intrastate, Congress would be able to regulate that activity pursuant to its commerce clause authority, regardless of how intrastate that activity might be when viewed in isolation.

Under this very broad interpretation, Congress's power could, in a sense, be viewed as extending to virtually every aspect of human existence because, after all, almost everything we do when measured in the aggregate might well be understood to have a substantial effect on interstate commerce. Yet even under that broad analysis, that couldn't extend to what was being regulated in the Patient Protection and Affordable Care Act—in the individual mandated provision, which was inactivity. Remember, this is an enormous breadth that the Supreme Court said Congress could, without interference from the courts, regulate under its commerce clause authority.

In *Wicker v. Filburn* what was at issue was the cultivation of wheat. Congress adopted a statutory framework in which farmers would be severely restricted in how much wheat they could grow—how much they could produce of this or that agricultural commodity.

There was a farmer named Roscoe Filburn who committed a grave offense against the Republic. His offense did not involve dealing drugs; it didn't involve murder or kidnapping. His offense involved growing too much wheat.

Roscoe Filburn grew more wheat than Congress—in its infinite wisdom—viewed appropriate for any American to grow. He was fined many thousands of dollars, which during the New Deal era was an enormous amount of money because of the fact that he grew too much wheat.

Roscoe Filburn was fortunate in that he had access to some good lawyers, and his lawyers advised him on this. They represented him aggressively and competently in court. What they argued, relying on true facts, was that, yes, our client Roscoe Filburn did, in fact, grow wheat in excess of the limit imposed by Federal law, but the amount of wheat he grew in excess of the grain production limit applicable to his farm that year was grain that never entered interstate commerce.

In fact, it never entered commerce at all. You see, that grain never even left Roscoe Filburn's farm. He used it on his farm to feed his family, to feed his livestock, and he held on to the remainder of it to use as seed for a subsequent planting season.

In a very real sense that wheat was not part of interstate commerce at all. Nevertheless, the Supreme Court of the United States, lacking nothing in imagination, said that even that wheat was within Congress's almighty grasp—within the all-knowing, wise reach of the Federal sovereign. What the Court

said was that the wheat grown by Roscoe Filburn in excess of the grain production quota was itself something that when viewed in the aggregate, could substantially affect interstate commerce.

In other words, if lots of farmers everywhere—just like Roscoe Filburn—grew too much wheat, even if their wheat never entered interstate commerce, the growing of all of that excess wheat would inevitably have an impact on the supply and demand and ultimately the price and availability of wheat on the interstate market. Therefore, even that wheat which was entirely locally grown and locally consumed would be subject to Congress's reach.

Wicker v. Filburn thus erected an extraordinarily low barrier for Congress to clear in establishing that it had properly invoked its authority under the commerce clause. Yet even that extraordinarily low barrier was high enough to stop Congress from acting pursuant to the commerce clause in enacting the individual mandate under the Patient Protection and Affordable Care Act. Thus ended the Supreme Court's analysis in June 2012 when it ruled that Congress had exceeded its constitutional limits under the commerce clause in enacting the individual mandate.

Significantly, this was only the third time in about 75 years—only the third time since *NLRB v. Jones and Laughlin Steel* and *Wicker v. Filburn*—in which the Supreme Court of the United States recognized Congress had overstepped its limits under the commerce clause. This was a rare thing for the court to do. It was foreseeable because the individual mandate in the Patient Protection and Affordable Care Act went so far beyond anything that had ever been seen before. Yet it was only the third time in the last 75 years in which that had happened.

Then something different happened—something very few people on either side of the aisle in this body or on either side of the political divide in America generally had seen. After concluding that Congress lacked this power under the commerce clause, the Supreme Court, under the pen of Chief Justice John Roberts, proceeded to analyze the government's backup argument; that is, the argument that even if, as the Court had now concluded, Congress lacked the power to do this under the commerce clause, Congress still had the power to do this consistent with its power to impose taxes.

The Court went on to conclude that Congress did have this power. Strangely, the Court also went on to conclude that is essentially what Congress had done here.

This was odd on many levels. No. 1, the Court had already concluded, as it had to conclude in order to proceed to the case—as it had to conclude in order to exercise jurisdiction over this case—prior to the implementation of the law, prior to the collection of this alleged tax, that it was, in fact, not a tax but

a penalty. It was very strange that the Court was now basically saying: OK, it is a penalty and not a tax for some purposes, but it is a tax and not a penalty for other purposes. Yet that is what the Court did.

It was also strange that the Court did this for the additional reason that Congress had considered legislative proposals in a different, earlier iteration of the Patient Protection and Affordable Care Act that would have enforced the individual mandate by means of a tax.

Congress considered language that would have done that. Congress knew, and still knows, how to enact legislative language that imposes a new tax. Yet when it tried to use that language, language that under 100 years' worth of jurisprudence everyone understands would have imposed a tax, Congress could not get the votes to pass it even in what was then a Congress in which the Democratic Party dominated both Houses.

Even in that Congress they tried but failed to get the requisite number of votes to pass the individual mandate enforced by means of a tax. They could not do it. It was therefore very odd that the Supreme Court of the United States would interpret what Congress couldn't pass as a tax in such a way as to make it a tax for constitutional purposes when Congress itself didn't have the votes to do it.

In order to pass legislation raising revenue—in other words, in order to pass legislation imposing a new tax—the Constitution requires that legislation of that sort originate in the House of Representatives. Why is this? I think most who looked at the issue would agree it has to do with the fact that the House of Representatives is the entity within our Federal Government structure that is, by design, most representative of the people.

In the Senate we have elections every 6 years. In the House it is every 2 years. From the outset the House was the body in which the people were represented because, of course, at the outset the Senate was the body in which the States were represented. That is no longer the case. We are directly elected by the people.

But it was always the case, and still is the case, that tax legislation must start in the House because it is the body closest to the people and most responsive to the needs and the desires and the concerns of the people. It is therefore quite ironic that this law—this tax, as the Supreme Court called it—was put into place as a tax, not by the body within the Federal Government that is most accountable to the people, the House of Representatives, but instead by the body within the Federal Government that is the very least accountable to the people, the Supreme Court of the United States.

I believe this amounted to a usurpation of constitutional authority. I believe this amounted to a betrayal of the judicial oaths of the five robe-wear-

ing men and women who signed on to that opinion. They did not have the power to legislate. They did not have the power to create a tax. They did not have the power to create out of whole cloth tax language out of penalty language—language that under a century's worth of jurisprudence, the Court's own precedence carrying stare decisis effect made clear it was a penalty and not a tax. Yet that is exactly what the Court did.

When people discover this—when they learn about and hear about it and dare to plow through the Supreme Court's opinion so they can understand what happens, they will inevitably ask: How can the Court do this? Does the Court have that power—the power to legislate, the power to impose a tax where Congress has not chosen to impose a tax? No, the Court doesn't have that power.

Then how can the Court do that? How could the Court do that? Why did the Court do that? The Court did that because it could, not because it could in the sense that it had the constitutional power to do it but because the Court has an exercise of raw political power. It chose to do so and did do so.

This was a tragic day in American history. It is a day we should not soon forget and a day we should do all in our power to remedy. This decision was wrong. It was unconscionable. As a matter of jurisprudence, it was unforgivable.

The Court then went on to address the challenge related to Congress's power to compel the States to expand their Medicaid Programs. Medicaid, as we all know, is a program that is partially funded by the Federal Government but administered and partially funded by the States. In the Affordable Care Act, Congress directed the States—whether the States were so inclined—to expand their Medicaid Programs. It gave them no choice but to expand them and to expand them to a very significant degree. It expanded them in a way that would bring about not only significant costs to the States over the years but also very substantial administrative burdens as well. Yet the Affordable Care Act left the States with no choice. You must do this. Just do it because we are Congress and we are all powerful. You have to do it because we say so.

There is this anticommandering principle embedded within our constitutional jurisprudence, rooted in the enumerated powers doctrine and rooted partially in the Tenth Amendment as well. It says that Congress lacks the power to commandeer States' administrative or legislative machinery to put in place, to carry out the legislature, to administer a Federal program. The Supreme Court of the United States concluded that Congress had violated this anti-commandeering principle in passing the Patient Protection and Affordable Care Act, and in doing so in a way that left the States with no other alternative.

So this was the second constitutional defect in the Patient Protection and Affordable Care Act.

But, here again, the Supreme Court chose to rewrite the law a second time in order to save it. Ordinarily, what the Court would do in this circumstance—in that circumstance, after concluding that Congress had violated this anti-commandeering principle and that this aspect of the Affordable Care Act was, in fact, unconstitutional—the Court would be under an obligation to go into what is called severability analysis, to analyze whether or to what extent or in what way Congress might have intended to allow the rest of the statute's provisions to operate independently, notwithstanding the unconstitutionality of the provision deemed invalid by the court. In this case, quite steadily, the Supreme Court engaged in no such analysis. It never reached the severability question, even though it had been the discussion of extensive briefing and conversation and oral argument.

The Supreme Court didn't get into severability at all. The Court decided it just didn't need to. It didn't need to because the Court rewrote the statute in order to make it constitutional. The Court wrote into the law a carve-out provision. It simply said, We are going to read this law as though it gave the States an opt-out provision, as though it gave the States an option of deciding whether or not to expand their own Medicaid programs.

The only problem is the text of the Patient Protection and Affordable Care Act contained absolutely no such language. We can read through all 2,700 pages of that law, and we won't find any opt-out provision such as what I just described. No, the Court created this too from whole cloth. The Court did this in the absence of any text. This too amounted to a betrayal of the judicial oaths of those who signed their names to that opinion. This too was a blatantly unconstitutional act that was an insult to the high judicial office that those individuals occupy. That too is an insult to the constitutional system, which has fostered the development of the greatest civilization the world has ever known.

We can't likely overlook crimes against the Constitution. We can't likely overlook the usurpation of authority by the few. We can't likely overlook the fact that laws—our most fundamental laws—have been openly flouted in this case, nor will we soon forget the fact that it has occurred here.

So here are all of these reasons why some of us feel so strongly, so passionately that this law started with some unconstitutional premises and has had its constitutional defects compounded over and over and over, as we have had the Supreme Court of the United States rewriting it, not just once but twice, in order to save it. We have the President of the United States rewriting it, in effect, legislating through the

stroke of the executive pen several times now, because, among other things, he says the law is not ready to implement. He doesn't have the power to legislate on his own any more than the Supreme Court of the United States has the power to legislate, any more than the Queen of England has the right to legislate for the United States of America.

The legislative power belongs here. It belongs here in the Congress of the United States, and we must exercise that power. When someone else takes that power from us, when someone else independently exercises the legislative power, we must guard it jealously. We must protect it. I don't care whether one is a Republican or a Democrat, and I don't care whether one is President Obama's biggest fan or his most aggressive critic. The office we occupy here requires us, compels us to defend our institutional prerogative as Federal lawmakers. When someone else exercises that power—a power that does not belong to them but to us—we must protect it, not because it is ours but because it belongs to those we represent. It belongs to those who elected us to serve here, those who elected us and not someone else to make the laws. Whenever—to any degree—we overlook the fact that someone else has legislated, someone not vested with lawmaking authority, we do ourselves and our country a disservice and we reflect a certain cavalier disregard for the oath we have taken to uphold the Constitution of the United States, which was put in place to make the men and the women of the United States of America free.

There is another issue related to all of this that I think we need to touch on, which is the issue of excessive delegation of legislative authority to the executive branch. In some circumstances, we have a situation in which Congress may voluntarily relinquish some of its lawmaking power to the executive branch. I say it may do that, that it can do that, but that is not necessarily saying that it should do that. Perhaps the most influential political philosopher in America's founding era was Charles de Montesquieu. Charles de Montesquieu wrote that the power to legislate is the power to make laws, not the power to make legislators. He recognized, I think, that there was a natural temptation among elected lawmakers to want to pass the buck along to someone else, to want to give to someone else the task of making law.

We do this sometimes when we pass an extraordinarily broad law and then we direct some executive branch agency to simply fill in the gaps, to effectively make the laws. The Affordable Care Act is replete with instances in which this kind of thing occurs, in which certain broad parameters are spelled out and in which we then say to this department or that department that it will have the power to promulgate rules carrying the force of gen-

erally applicable Federal law, which that same department or that same agency will then have the power to enforce.

So that is part of how we end up with 20,000 pages of implementing regulations already under ObamaCare—20,000 pages and counting—because we have a lot of instances in which we have delegated de facto lawmaking power. That too presents its own kind of constitutional problem—not necessarily a constitutional problem that the courts are inclined to recognize, but a sort of constitutional problem nonetheless, because the more we delegate de facto lawmaking power to an executive branch agency, the less we see that anyone is accountable to the people for our laws.

One can imagine, for example, if taken to an extreme, what this could look like. Let's suppose one day we just decide we are tired of debating and discussing and voting on and having to pass laws that are controversial, laws that are specific, laws that require us to get our hands dirty, laws that require us to make difficult decisions, so, once and for all, we are going to pass a law that everyone can get behind. It will be called the law of good laws. A law that says we shall have good laws and we hereby delegate to the herewith created U.S. Department of Good Laws the power to make and enforce good laws. We then pass that and we give this Department of Good Laws the power to issue regulations and to enforce those regulations. This is actually not all that different from what we do all the time and what has been done under ObamaCare to a very significant degree—about 20,000 pages of regulations so far, and that is still building.

One of the reasons this is a problem is because when the people don't like our laws, they can come to us and they can hold us accountable for laws that we may have voted to enact. They can choose to replace us with someone else, someone who wouldn't vote for that kind of law the next time they have the chance. But when the law that they don't like is not one that we have enacted but instead one that has been promulgated by an executive branch agency, the people come to complain to us and, in that circumstance, we say: Don't look at me; go to the executive branch agency; they are the ones who did it. They go to the executive branch agency, and they see that the people occupying the executive branch agency, as well mannered, well educated, well intentioned, and well groomed as they might be, are not subject to elections, so they can't be voted out. They can't be fired by the people. That is why we are entrusted with the lawmaking power. It is not necessarily that we are the best equipped in every way to do it; it is that we stand subject to elections in 6-year intervals in the case of the Senate, and in 2-year intervals in the case of the House of Representatives. It is yet another reason why we ought to be more resistant,

more concerned when it comes to enacting legislation that delegates an excessive amount of de facto law-making power to an executive branch agency.

It is yet another reason why I think we need to pass something akin to the proposal that has been introduced as the REINS Act, which would say anytime an executive branch agency issues a new rule, a new regulation deemed by the Office of Management and Budget to constitute a major rule, that major rule will take effect if, and only if, it is first passed into law by the House and then by the Senate and then signed into law by the President. Then and only then do I think we will be able to start to reclaim that legislative power which is rightfully ours, and that, more importantly, the American people will be able to hold Congress accountable for the responsibilities properly given to Congress under the Constitution. This is about allowing the people to be governed by those they choose. When we delegate excessively our own lawmaking power to executive branch agencies, we deprive the people of their right to have their laws written and enacted by men and women of their own choosing.

This is important, and it should be important to people of all political backgrounds, to people at every end, at every step, at every stage along the political continuum. This is an issue this is neither Republican nor Democratic, it is neither liberal nor conservative, it is simply American.

When we pass laws, we pass laws through democratically elected Senators and Representatives. We do not do it through nameless, faceless bureaucrats who, regardless of how well-educated and well-intentioned they may be, do not serve the people in the sense that they are not elected by the people. They are not subject to reelection. They are not subject to dismissal by the people.

We must hold that power here. That power belongs to us, not to bureaucrats. It belongs to us, not the President. It belongs to us and not to nine Justices wearing black robes across the street in the Supreme Court of the United States.

These are some of the things that are at stake. These are some of the reasons it is so significant that we have this prolonged, protracted effort by the President of the United States to usurp power that is not his own. We must not facilitate the President in his ongoing effort to aggregate power, to accumulate power within the executive branch of government that is not his own.

That is why we need to stand up to the President. I am against some of these nominees he has pushed forward again and again and again trying to trample over the rights of the minority. We have to do that. We have an obligation to stand up to the President, especially because he is taking power that is not his own, and he is doing it, among other things, to move forward with ObamaCare, a law that a majority

of the American people have never approved of and a law the American people are growing steadily more against every single day.

I see my time is expired.
I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. KAINE). Without objection, it is so ordered.

Mr. BARRASSO. Mr. President, the matter before us is that of a nominee to be Commissioner of the Equal Employment Opportunity Commission for a term expiring July 2018. This nominee was asked to serve as a Commissioner by President Obama and was confirmed by the Senate by a voice vote in December 2010 for a term ending July 2013. While her term expired at that date, she can continue to serve until the end of this congressional session, December 2013, so she is still in the position, continuing to serve.

I have gone through her entire biography, and I would have some questions if I were to have an opportunity to visit as a Senator today with this nominee to be Commissioner of the Equal Employment Opportunity Commission. I would like to ask the nominee if she is willing to forgo Federal employee insurance, which she currently has, to go onto the insurance now forced upon most of America through the President's health care law. Would she, who is now seeking nomination and seeking confirmation, be willing to do what Americans are being asked all around the country to do, people who received letters that said: Sorry, your insurance isn't good enough. Sorry, you can't keep your insurance regardless of what the President may have promised. What would this nominee say? Is the President's health care law good enough for her? Is what the President is promising to Americans good enough for her? I shouldn't even say "promising"—offering, if they can get it, depending on whether the Web site is working on a given day, whether they can afford it, whether they want it, whether it works for them. Is this something this nominee would think is a good idea for her?

Because, of course, she is in position as Commissioner of the Equal Employment Opportunity Commission, I would like to ask the nominee regarding her views of employers who are being forced to change health care plans offered to their employees as a result of the Democrat-mandated and passed on party-line votes Obama health care law. What are her views on employers being forced to change health care plans offered to employees because of what this Senate body did?

I would also like to ask the nominee whether she believes an employer who requires some of his or her employees to join the exchange and is OK about exempting other employees—whether that would be a violation of the Equal Employment Opportunity Commission laws. Does she believe an employer who requires some of his employees to join the exchange while exempting others—would that be a violation of the laws. That is what the majority leader of the Senate has done. Do the laws not apply to the majority leader? Can he decide one way or the other?

We have heard his explanation. I know the Washington Post gave him three Pinocchios, meaning there is a considerable amount of untruth in his explanation. But what about this nominee before us today?

I would also like to hear her thoughts regarding whether people in power should have the right to change rules at any time in a manner that restricts the rights of those whom the rules were intended to protect because that is what has happened on this floor of the Senate in the last couple of weeks. A group broke the rules to change the rules in a way that has denied the minority rights that had been protected for centuries. So I would be interested in hearing what the nominee has to say about that.

It is interesting because the facts that have been brought forth on the floor by the Senate majority leader regarding the filibuster have actually been described as fraudulent: "Democrats' Filibuster Fraud."

On November 21, majority leader HARRY REID broke his promise not to employ the nuclear option when he and Senate Democrats eliminated the filibuster on nominations. They did so based on what Senator HATCH once described as a "filibuster fraud." ORRIN HATCH, a longstanding Member of this body, probably knows the rules better than any.

I believe they did it in an attempt to divert attention away from this ObamaCare nightmare—people faced with higher premiums, canceled coverage, people finding out they can't keep their doctor, fraud and identity theft which is going on even until today and I think is going to continue to get worse in the future, and higher copays and deductibles.

One of our Senate colleague's staffers was trying to sign up for insurance on Monday, I understand was on a Web site that pretty much looked identical to the government Web site, and what he found was it took him to a page where they asked for his bank account number and his PIN number. I think everyone agrees that is not part of the health care Web site. This is a staff member who works for the Senate and found himself taken through the computer—I should say the broken Web site, easy to maneuver and manipulate—it took him to a page asking for his bank account number and his PIN number.

He then called the help line, spent several hours on hold waiting to talk to people, and they said: Just get off of that Web site. The folks he was talking to even seemed surprised to know that he logged in to what he thought was the correct Web site and what looked identical to the government Web site, but yet there was a problem there.

So I believe what we are seeing is an effort to divert attention away from the ObamaCare nightmare and ensure that the circuit court of appeals will be a rubberstamp for the President's agenda. And what has happened? The Washington Post looked at the comments by the Senate majority leader, who on November 21 said:

In the history of the Republic, there have been 168 filibusters of executive and judicial nominations. Half of them have occurred during the Obama Administration . . .

The Washington Post, which looked at it, said: Leader REID's figures confused cloture motions, which are requests to end debate, with filibusters, the response to those requests.

So just making a request isn't a filibuster; it is actually making a filibuster response to the motion.

They said: This was despite the clear admonition of the June Congressional Research Service Report that cloture motions don't correspond with filibusters.

Apparently Senator REID did not have a chance to read that or wanted to ignore it. It didn't fit the scenario or the story that he was trying to weave. They went on to say:

Since the majority leader files nearly all cloture motions, Senator Reid himself created the very statistic that he relied upon to force a rule change.

Senator REID himself by filing all these cloture motions, he is the one who created the very statistic that he relied upon to force a rules change.

Many of these, the Washington Post reports, were clearly unnecessary. In fact they say 32 percent of all cloture motions in the past 4½ years were withdrawn before a vote. Even the fact checker of the Washington Post rejected the majority leader's claim. They said:

But we especially find it hard to get past CRS's admonition that the data in its report should not be used to calculate the number of filibusters, as Reid's office has done.

They have given him a couple of Pinocchios on that one too. It is fascinating that the majority leader of the Senate receives Pinocchio after Pinocchio in the Washington Post for continuing to distort or tell his version of a story which is just not true at all.

I believe all of this is in an effort to distract people from all of the issues that are damning and hurting the President's standing in the eyes of the American people.

It is interesting. You do not have to go too far back in the newspapers. You just go to Wednesday, December 11, yesterday. The Wall Street Journal, page 4, "Poll: Health Law Hurts president Politically."

The American people know this is the law that the President forced through, a party-line vote, in the middle of the night, Christmas—and it looks like we may be here Christmas again this year, because of an unwillingness of the Democrats to work together to accept Republican ideas, to talk with their colleagues. Let's see the subheadline here, "Obama's Job-Performance Disapproval Rate Rises to All-Time High."

The President's disapproval rate of his job performance rises to an all-time high of 54 percent. Then it says "Even As Americans Upbeat On Economy."

So the President is at an all time high of his disapproval even at a time when people from an economic standpoint believe that things are not as bad as they may be. Why is it? Because of the health care law. People all across the country—the numbers are 5 million now who have lost their insurance, gotten letters from their insurance companies saying sorry, you have lost your insurance. It might have worked well for you.

I talked to folks at home in Wyoming, a ranch family. They have insurance. It works for them. It is what they wanted, it is what they had for many years, but they found out it didn't qualify because it was not good enough. It is interesting to hear the President say better insurance. Not better for them. More expensive, more things to cover that they don't ever need. The reason they lost their insurance is because it didn't fit the President's 10-point criteria. It didn't include maternity coverage.

A woman who knows I am a doctor, knows I practiced medicine in Wyoming for 24 years—and I talked to her at the Wyoming Farm Bureau meeting in Laramie a couple of weeks ago—said: I have had a hysterectomy. She said: Doctor, you know somebody who has had a hysterectomy doesn't need maternity coverage. They are not going to have more babies.

So she lost insurance that the family has had. It worked for the family, and they could afford it. They had it included in their budget, and they lost it because she doesn't have maternity coverage, because she has had a hysterectomy. She had insurance that worked for her.

Who does the President think he is, to say that he knows better than she does, what is right for her and for her family? That is why the President is being hurt politically. It is the health law. It is the mandates on the American people. It is the President and the Democrats in this body saying: We know better than you do. We know what your kids need, we know what your family needs, we know what works in your life.

I will tell you, the President does not know. He has no idea what works for these people at home in Wyoming and that they have made intelligent choices, thoughtful choices. They know what works for them. He doesn't know

their lives, and he doesn't know their needs. His disapproval rate—not surprising to me—is at an all time high, and it is well deserved because people are being faced with not just the Web site failures, which drew attention to this, that I believe made the Secretary of Health and Human Services the laughing stock of America because of her comments and how they played forth on the comedy shows, but also and more important, because of what is below the tip of the iceberg, the higher premiums. My friend in Wyoming has found that what she needs to do in terms of the insurance that the President said she needs—it is going to cause their premium to skyrocket. She is going to be forced to buy insurance because the law says all Americans need to buy insurance. She is going to be forced to buy insurance that really they don't need, they don't want, they are never ever going to use, they cannot afford, and it is money not going to be used for other things—for books for the kids, for food for the table, for things around the house. They are going to lose that opportunity. That is what this is all about.

That is why the President's numbers have dropped so significantly. It is interesting when you go through these statistics, findings—and this is a combined poll from the Wall Street Journal and NBC news—the health care law, whether it was a good idea or bad idea. According to this poll: bad idea, 50 percent, good idea, 34 percent—50 percent bad, 34 percent good.

Then they say what is the impact of this health care law on your family? That is what people wonder about. What does it mean to them? What does this mean to them personally? Because it was interesting. On the exit polling from the Presidential election last year with Mitt Romney and Barack Obama, people across the country believed at that time that in response to the question of "cares for someone like me," Barack Obama did much better, scored much higher than Mitt Romney.

Now the President is underwater because people are saying he doesn't care about me; he doesn't know about me; doesn't care about me; is not thinking about me, is thinking about his legacy but not thinking what I am going to have to pay in premiums; not thinking about my insurance being canceled; not thinking about me not able to keep my doctor; not thinking about fraud and identity theft; not thinking about the higher copays and deductibles. Right now, in terms of the poll that was in yesterday's Wall Street Journal by NBC news, whether this was going to have a positive or a negative impact on people's lives, fewer than 1 in 8 Americans believe that this health care law is going to have a positive impact on them and their families. Fewer than 1 in 8. It is astonishing that fewer than 1 in 8 people think that this health care law is going to have a positive impact for them and their family.

Yet it was crammed down the throats of all Americans, forcing them to face

all of these issues and costs related to that. The poll shows the President's disapproval at the highest rate ever, 54 percent, going back from the time he was elected. In terms of how you look at this—start reading the article.

The federal health-care law is becoming a heavier political burden for President Barack Obama and his party, despite increased confidence in the economy and the public's own generally upbeat sense of well-being, a new Wall Street Journal/NBC News poll suggests.

Disapproval of Mr. Obama's job performance hit an all-time high in the poll, at 54%, amid the flawed rollout of the health law. Half of those polled now consider the law a bad idea, also a record high.

There was the flawed roll out and Web sites can be fixed. The Web site can be fixed—and that is why the Web site failure is only the tip of the iceberg. What has really gotten people mad is the 5 million letters, and we don't even know how many letters went out in Illinois, Ohio, Texas. We don't have those numbers yet. So the numbers of folks who lost their health care coverage that worked for them, that they liked, that number is, I believe, going to be higher than 5 million. So this is going to continue to roll out with people showing huge disappointment. I expect the President's popularity to fall even further.

I think it is going to get even worse come January 1 as people start to go to a doctor and find out that maybe they think they bought insurance through the health care Web site and find out that they actually do not have it. We have people I have talked to that have put in all the information. They spent hours, but the Web site went down. They came back for more hours but don't have confirmation yet. They really do not know if they have insurance yet. They would like to know. They would like to see assurance. They would like to have confidence their government can get something right. They do not see it now. They don't see the President doing what he promised.

The President was on television with President Clinton, at the Clinton World Summit in New York, just 3 or 4 days before the Web site was unveiled, and there was the President sitting with former President Clinton saying that this was going to be easier to use than Amazon. Cheaper than your direct phone bill, and if you like your doctor, you can keep your doctor.

Did the President really believe that or was he so detached, so disconnected from the reality of what is happening in this country that he was not even overseeing his job. This is his signature achievement. Yet it seems like he ignored the implementation process.

For those in this body who served as Governors, as chief executives of States, as the Presiding Officer of the Senate has done, you never let that happen. You might have tested it for yourself: What is it going to look like? I am curious, what happens when people sign on? How does it work? But just to push "go" and have this blind confidence that everything is going to be

fine and not know and 3 or 4 days before on a world stage saying: Oh, easier than Amazon, I think is very distressing to many people. That is why the President's performance shows such high disapproval, 54 percent. That is why, according to the Wall Street Journal poll and NBC news, the health law is hurting the President politically.

This is not just a survey of a couple of people. This survey is of 1,000 adults. It was conducted between December 4 and December 8. What it did is it found a sharp erosion, they say, a sharp erosion since January in many of the attributes of a President.

What are the attributes you would like to have in a President? What would a nation look to in a President? Attributes that say: This is what we want in our President. Honesty—that is what you would like to have, a President who is honest. Leadership ability to handle a crisis. They say that had kept President Obama aloft through the economic and political turmoil of his first term, but now it is not there anymore. The feeling about the President regarding his own honesty has dropped precipitously.

You do not want our country to have a President who the people think is not honest, but that is where we are right now. I will tell you, he brought it upon himself and he did it intentionally, he did it deliberately and he did it by looking into that camera and intentionally misleading the American people about his health care law—not just in the lead-up to passing the law but continued all the way through. What does the President say? He said if you like your insurance, you can keep your insurance, period. It was his punctuation of that sentence that said there is nothing after that. He said if you like your doctor, you can keep your doctor, period. He has continued to say that.

It was interesting, even after the whole debacle, the letters going out, so many people finding their coverage had been canceled, the White House Web site continued with a video of the President saying, "If you like your coverage, you can keep your coverage, period." If you like your doctor, you can keep your doctor, period. Is it any surprise that the American people no longer find the President trustworthy, honest? Is it a surprise, then, that the President finds that the health law is hurting him politically? Is it a surprise that the disapproval of his performance is now at an all-time high? That is what we are dealing with in this country, and yet the President continues to go forth and say, are the Republican ideas?

We have had idea after idea. We tried to visit with the President about those ideas. He wants to hear nothing. He wants to hear nothing. He wants his talking points and he doesn't really have a clear understanding of what damage he has done to America with this law that has hurt so many families across the country and continues to

cause pain and suffering and anxiety, and as a result anger, and as a result the health law hurts the President politically. Those are the issues that are in front of us. Those are the issues that are in front of us.

I have a letter from a gentleman who lives in Cody, WY, that I want to read and share. This came in a couple of days ago online.

For the most part people in Wyoming know me as Dr. BARRASSO. I have treated many of them. I have been involved with the Wyoming health fairs and taking low-cost blood screenings to people all around the Cowboy State. I still attend the fairs and visit the small communities. We did a poll there about why people go to health fairs. The No. 2 reason they go is for their health, and the No. 1 reason is to socialize and see other people in their community.

I know the Presiding Officer has seen similar things in his home State when he goes to activities that people go to, and they want to see one another.

This email is by a gentleman who wrote to me and knows about my activities at the health fairs and as a doctor.

He said:

Just got a quote from my insurance agent on Obama care insurance. From \$860 I currently spend per month for my family of 4, to \$2,400. All with the low deductible of \$10,000 per person per year.

That is the other issue: Higher copays and deductibles. This is a big part of what is happening with this health care law. I mean, it is interesting.

This is Monday's Wall Street Journal, dated December 9: "Deductibles Fuel New Worries of Health-Law Sticker Shock." That is what my friend from Cody, WY, is finding after being hit with the higher deductibles.

I will share some of the things the Wall Street Journal said and then get back to the letter from my friend in Cody.

It says:

The average individual deductible for what is called a bronze plan on the exchange—the lowest priced coverage—is \$5,081 per person a year, according to a new report on insurance offerings in 34 of the 36 states that rely on the federally run online marketplace.

That is 42 percent higher than the average deductible of \$3,589 for an individually purchased plan in 2013 before much of the federal law took effect.

"Deductibles Fuel New Worries of Health-Law Sticker Shock."

Right under the article, "Health Site Snafus Plague Maryland." I understand that is a State that has their own exchange. That is not even a Federally run exchange. When the President says the States are doing such a great job, and if we let the States do all of these things, we wouldn't have all of these problems. Maryland is having huge problems, as are quite a few of the States.

Getting back to the letter written by this gentleman from Cody, WY, who was hit with an incredibly high deduct-

ible—higher than the average. The average is over \$5,000, which is higher than it was last year for people around the country. He said:

I'm not sure what planet they think I live on, but there is no way I can spend more than ½ of my monthly income on insurance. For the first time in my adult life I will soon be without insurance.

What does President Obama have to say about that? How does the ObamaCare health care law—I thought it was written in a way that people would get insurance, not lose insurance. Wasn't that the purpose of this? This gentleman said this is the first time in his life he will be without insurance. Why? Because of the law.

He said: "What does it matter if my 18-year-old children can stay on my insurance plan if I can't afford to keep one?"

I mean that is the big talking point on the other side of the aisle; young people up to age 26 can stay on their parents' health care plan. I think it is a good idea to allow young people to stay on their family's insurance plan. Of course the President tends to add in that it is free, and it is not free. There is a cost to that. I think it is a good idea to help with families.

As this gentleman from Cody, WY, says:

What does it matter if they can stay on the insurance plan if I can't afford to keep one? Also all the air time to pre existing conditions are meaningless if I can't afford to keep a plan.

I feel greatly blessed to have the good paying job that I have. It puts me above the pay level that would allow me to get any subsidies.

He has a family of four and can't get subsidies. He said: "By the way, with the system in place this year, I wouldn't have needed subsidies." With the current system he wouldn't need subsidies, but when he goes from \$860 to \$2,400, he can't afford it even though he doesn't qualify for subsidies. Yes, we see the genius of the Obama health care law by ignoring what happens in real people's lives.

I think it is interesting to see that the people who wrote this law wrote it behind closed doors. I know the President said this evening he was not a Member of this body at the time, but it was written behind closed doors through that door of the Senate. The people who knew the most about what is in that law, they seem to be the very people who have been excluded by the majority leader from having to live under it. Those are the people who got the exemption, and they are the ones who know what is in it.

It is so ironic that the majority leader of the Senate would say that his people who helped to write this law don't have to live under it. The Washington Post calls him on it. Yet the rest of America has to live under what is not good enough for the majority leader's own staff. It is ironic and sad to see a day like this come to our country.

As this gentleman says, he has never needed to have subsidies before. He

said: "I have never needed them in the past and would like to continue to never get a handout from my government." This is an independent individual. He doesn't want a subsidy. He is not asking for a subsidy. He just wants the insurance that worked for him and his family for all of these years, and now he has no insurance.

He said:

I employ about 35 people with my company. When we first opened about a year and ½ ago we were talking about getting some sort of coverage. It became very clear that we will not be able to do this. . . .

They have 35 employees, so under the 50, but still wanted to do the right thing. He wanted to give people coverage. He said:

It became clear that we will not be able to do this, and have stopped any of our plans to provide this in the future. We also know for sure that we cannot afford to ever employ more than 50 people as we continue to grow, there is an upward limit on how many people we will hire.

That is as a result of the law and not because the business is not there and not because the economy won't support it. It is not because they don't want to employ more people, and not because they don't want to help their community. Because of the health care law, they are putting a cap on the size of their business.

He said:

Simple economics, Obamacare is a job killer in Wyoming. It has never been easy to be in business, that is part of the fun of being successful. It is discouraging when our federal government limits the American dream for everyone.

The Federal Government is limiting the American dream for everyone. He said: "I am thankful for your efforts, but from my office chair in Cody, it is already too late."

I know I am not the only person in this body who is getting letters like this. I know people who actually voted for the health care law are getting letters like this. I am not sure what kind of responses they are giving them. We call these people. The staff has worked with them, and I visit with them when I get home on the weekends to listen to folks.

But when we look at that sort of letter and that sort of well thought out rational approach from somebody who is working and has had insurance their whole life, that provides for his family and builds a business in a community, hires people, wants to provide insurance and now says: Not going to provide insurance, going to limit our growth, and my family loses insurance—why? It is because of a health care law that I think the President—I don't know if he had any idea of what the impact of this was going to be. We came to the floor on this side of the aisle day after day and week after week talking about why when you read the law, it is a real problem. We talked about why the concerns expressed by the American people should have been listened to but regrettably were not listened to, and why I think it is a ter-

rible mistake and very harmful to the American people.

It is not just the Web site. It is the higher premiums that my friend from Cody is hearing about because his coverage was canceled because it wasn't good enough according to the President.

We will get to whether he could keep his doctor or not in a second. We have talked about higher copays and higher deductibles, and those are the things we are facing now in this country. People are noticing them around my State and all around the 50 States. Doctors are noticing it.

I was in my medical office last week talking to some of my colleagues—my former medical partners. They are being swamped right now with folks coming in for care. This is not just in the middle of Wyoming. This is all across the country.

I talked to a surgeon yesterday on the faculty at Duke University. He had the same story there. So we are seeing it east and west and north and south. Doctors' offices are being swamped with patients who have insurance now.

The President's health care law was to make sure that more people got more insurance and coverage after the first of the year. These are people who have insurance now and are afraid they will not have it after the first of the year. They don't know if they will have it. If they had to go onto the exchanges, they haven't gotten confirmation from the exchanges yet. They are anxious about that; they are also angry.

They don't know if they are going to be able to keep their doctor, which gets to the point of "can't keep your doctor." So what they are doing is going to their doctors' offices now and saying: I have been putting this off for a while—my shoulder that has been bothering me or my hip or my knee, and I want to get it taken care of now while I know you are still my doctor. I know that I can still come to you at least until the end of the year, and I know for sure I still have insurance right now.

Hospitals, medical offices, and clinics are all being swamped by patients trying to get caught up with things they may have put off for a while. They don't know what will happen come January 1st, and I will tell you neither does the President of the United States. I think the President doesn't know what will happen on January 1.

I think he is standing there with his fingers crossed and hoping it doesn't get any worse. I will tell you. I think it will get worse with more people, with sticker shock of higher premiums, and coverage canceled. People are going to find out all across the country they can't keep their doctor.

Fraud and identity theft is going to get worse as more cases get reported, and we are going to see more and more people not being able to pay their deductibles.

I wanted to spend a second on this issue—on the whole issue of the Presi-

dent's promise that if you like your doctor, you can keep your doctor. As a doctor, there is a very special relationship between a doctor and a patient and a patient and a doctor. It goes both ways.

I think it was very telling, as well as distressing to many people, this past Sunday when on one of the Sunday news shows, Ezekiel Emanuel, Rahm Emanuel's brother, who is a professor at the University of Pennsylvania and a physician in the academic setting—one of the interviewers asked him: Was it a true statement, "If you like your doctor, you can keep your doctor?" He said: The President never said you could go to all of these other people and specialists. The interviewer said: Wait a second. Let's get back to if you like your doctor, you can keep your doctor. Ezekiel Emanuel basically said if you like your doctor, you can keep your doctor if you are willing to pay more. That is not what the President said. The President used the punctuation point, used that period at the end of his sentence: If you like your doctor, you can keep your doctor, period. Now we have Ezekiel Emanuel on the Sunday shows saying: Well, the President never really said that. But he did. He said it dozens of times.

Folks in this body have asked me about the bond between a doctor and a patient, and I think the President knew very well about that bond when he made the promise that if you like what you have, you can keep it. So I put pen to paper and had an editorial in yesterday's Investor's Business Daily—Wednesday, December 11, 2013—called "A Special Bond Deeply Severed By ObamaCare." I would like to share some of those thoughts with my colleagues today because I think that is a special bond. As a doctor, I know what that bond is like with my patients.

I write in this column:

A central architect of the president's health care law admitted this week that the often repeated promise that "if you like your doctor, you can keep your doctor" simply isn't true.

Instead, Dr. Ezekiel Emanuel explained that if you like your doctor, you will simply need to pay more to keep your doctor.

I write:

As a physician, I know firsthand how this will hurt many Americans.

Families look to doctors as trusted friends, as confidants and as counselors and turn to them for advice in making life and death decisions.

In Wyoming, patients have included me in graduations, in weddings, and asked me to serve as a pallbearer. They have asked me to pray with them, to referee family disputes, and to provide reassurance when a doctor they did not know was called in to consult.

I go on:

Norman Rockwell's painting "Doctor and Doll" tells the story.

I think people here can kind of visualize that picture.

A little girl holds up her doll as the trusted family doctor listens to the doll with his stethoscope. The caring, compassionate physician takes the time to reassure the concerned little girl.

The doctor-patient relationship is a very special bond. It requires faith and trust for a patient to allow me to cut into their body to remove a tumor, to replace a worn-out joint, to fix a broken bone, to repair a torn ligament and, above all else, to do no harm.

The President knew of the special relationship between people and their doctors. That is why when he was trying to gain support for his health care law, he made a clear and simple promise to the American people. The President said, "If you like your doctor, you can keep your doctor, period."

Now people across the country are finding they can't keep their doctor.

The same law that has caused millions of Americans to lose the health insurance that worked for them is now causing people to lose their doctors.

People shopping for insurance on government exchanges and people going to the Web site are being forced to purchase insurance for things they don't want, don't need, or will never use.

To keep costs down, many of these policies limit the doctors and limit the hospitals that patients can use.

So not just the doctors, the hospitals as well, including the Mayo Clinic and Cedars-Sinai Medical Center—they are excluded from many insurance networks.

Some of the best children's hospitals in the country are also excluded from the exchanges. This means a child with cancer—

And there have been articles about this—

may lose access to his or her doctor and the specialty hospital because of this law.

Come January 1, there are kids in this country who are not going to have the ability under their new plans to go to the hospitals that have been treating these young people.

In New Hampshire—

There are two Senators here from New Hampshire, one on either side of the aisle.

In New Hampshire, 10 of the state's 26 hospitals—

So there are 26 hospitals; 10 of the State's 26 hospitals—

are excluded from the only carrier offering insurance in the exchange.

There is only one carrier in the exchange. I remember the President talking about all of this competition. There is 1 carrier in the exchange. There are 26 hospitals in the State, and 10 of them are excluded from the only carrier that is offering insurance.

I will tell my colleagues that this next sentence is fascinating.

The head of the medical staff of one of the excluded hospitals—

This is the chief of staff of the hospital—

learned that her plan does not even allow her to seek treatment at her own hospital where she is the chief of staff.

It is unbelievable.

We take a look at that and say: How could this have happened? But that is the law that was passed, and that is the 7-foot tower of regulations that has come out from the bureaucracy.

I write:

The situation could be equally bad for seniors on Medicare.

For seniors on Medicare, if you can't keep your doctor, it is a really big deal. It is sometimes difficult for a senior on Medicare to find a doctor. If they get one and then they like that doctor, they want to keep the doctor. As we have seen, seniors sometimes move to other communities to be closer to their kids and grandkids. To find a doctor is a struggle, it is a challenge, but I think the situation could be equally bad for Medicare, and here is why, and I wrote about it in this editorial in the Investor's Business Daily yesterday:

Thousands of doctors caring for seniors on Medicare Advantage—

And about one in four people is on this program called Medicare Advantage.

Thousands of doctors caring for seniors on Medicare Advantage have been dropped from their networks. Those Medicare patients will now be challenged with finding a new doctor to take care of them.

The president's health care law is making it harder for doctors as well as patients.

It is not just the patients; it is very hard for doctors.

Doctors know their patients' health history, they know their families, they know their lives. Doctors value the personal relationship as much as the patient does.

That's why people become doctors in the first place—to take care of their patients.

In my graduating class, the way we felt about it—and I was invited back to speak at the commencement. I think it was about the 30th year after I had graduated that I got invited back as a guest speaker, talking to those medical students who were graduating. That is the same reason people continue to go into medicine. They want to take care of patients. They are intellectually stimulated and challenged by all the new advances, but people go into medicine to take care of their patients.

In this editorial, I say:

Even if someone is able to keep their doctor, they won't necessarily be able to spend as much time with that doctor as they might like. That's because nearly two-thirds of the doctors expect to spend more time on paperwork under the requirements of the new law.

So doctors are going to have to spend more time on paperwork. Some of this is done with computers, with electronic medical records, but there are still paperwork-keeping activities. It is interesting because so often doctors have the computer in the office with the patient, and patients feel the computer that is mandated under the health care law is interfering, with the doctor looking at the computer screen rather than looking at the patient. So this is all having a significant impact.

I conclude by saying:

This is not at all what the president promised. People all across America put their faith and trust in Barack Obama when they elected him President.

It's the same kind of faith and trust they have in their doctor. When patients lose trust in their doctor—or citizens lose trust in their president—it is extremely difficult to regain.

That is why—going back to yesterday's Wall Street Journal: "Health

Care Law Hurts President Politically"—the disapproval rate has risen to an alltime high of 54 percent. Fifty-four percent disapprove of the President.

I go on to say in this article, which is what happens:

I continue to hear from my patients in Wyoming. They have always had my home phone number. They are anxious. They are angry. They call me at home. They know what they wanted from health care reform. What they wanted was access to quality, affordable care.

That is what the President talked about in his speeches, but that is not what he delivered in his health care law.

That's not what they got with this law. Now, many face losing the doctor who has always been there for them.

If President Obama wants to regain the trust of the American people, he will sit down with Republicans to deliver reforms that will help all Americans and fully protect the doctor-patient relationship.

After all—

And I hear this at home in Wyoming—

President Obama has his own doctor at the White House who is dedicated to his care. I'm sure he values that relationship just as much as other Americans value their relationship with their doctor.

So that is what I felt when I wrote this article called "A Special Bond Deeply Severed By ObamaCare" in yesterday's—December 11—issue of Investor's Business Daily, that people can't keep their doctor and there are great concerns about that, and they are being impacted in so many ways.

It is interesting. Since this health care law passed, I have come to the floor just about every week with a doctor's second opinion about the health care law to talk about ways that I felt this health care law was bad for patients, bad for doctors and nurses, physician assistants, and others who take care of patients, and why I thought it was terrible for the taxpayers. But it seems that in recent weeks we can pick up any newspaper and there is a story basically saying this law is bad for people.

This is the New York Times, and they support the law. This past Monday, Robert Parry, a well-known journalist who writes frequently on the topic of the health care law and on health exchanges, said:

Premiums may be low, but other costs can be high. For months, the Obama administration has heralded the low premiums and medical insurance policies on sale in the insurance exchanges created by the health care law, but as consumers dig into the details—

Which is something I was asking for on this Senate floor a number of years ago when the law passed: Will the Democrats please dig into the details to see what impact this is going to have on people in terms of higher premiums, in terms of canceled coverage, in terms of trying to keep their doctor, in terms of higher copays and deductibles, in terms of people on Medicare trying to find a doctor to take care of them.

As consumers dig into the details, they are finding that the deductibles and other out-of-pocket costs are often much higher—

Often much higher; not a rare case—than what is typical in employer-sponsored health plans, which says that the exchanges are not going to be helping many people.

I found it interesting—talking a little about people not being able to keep their doctors but also not being able to keep their hospitals—why is that? I think we are seeing a number of these exchanges and policies being offered. They realize that the people who go to certain hospitals have more serious conditions, likely more expensive, and as a result don't include those hospitals.

In the Financial Times this week, "Healthcare insurers cut costs by excluding top hospitals." This was Monday of this week, and we are seeing this week after week, which is why I have been coming to the floor with great regularity to share with this body what people across the country are seeing.

It says:

People buying insurance plans under "ObamaCare" will have limited access to some of the leading U.S. hospitals, including two renowned cancer centers, as insurers try to cut costs.

There is a picture of MD Anderson Cancer Center at the University of Texas. It says the plan will not cover treatment at the Houston cancer center. I didn't even get into that in my article. I talked about pediatric hospitals, and I talked about New Hampshire hospitals. But we are talking about major cancer hospitals that are not included in the exchanges for the most part, and that is what we are seeing all across the country. You can kind of compare it to what kind of car you could buy. What kind of coverage can you get. But the bottom line is people were misled by the President and people feel deceived by this President.

Tuesday's Washington Post: "Under health law, insurers limiting drug coverage." "Costs may soar for those with HIV, other ailments." This is not on the back page. This is on the front page of the Washington Post. This is all as a result of what the Democrats, in a party-line vote, passed and forced upon the country.

That is what is going on here. We have a health care law that people are very uncomfortable with, and they are going to continue to let the President know that, which is why he is being hurt, his disapproval is the highest ever, and what has been sharply eroded are folks' belief in this President's honesty and his leadership ability to handle a crisis.

This is a crisis for the President. This is a crisis for the country. What is the President doing about it? He is blaming the Republicans for a law that passed with no Republican votes. He is blaming the Republicans for an idea that was his and was forced through on party-line votes, without Republican input, written behind closed doors,

right through those doors over there, by people who have now been excluded, do not have to go under the health care law. Yet in the Washington Post: "HARRY REID's explanation for why not all of his staff is going on "ObamaCare"—and the big three Pinocchios. Remember the story of Pinocchio, the boy whose nose grew whenever he told falsehoods. That is what the Washington Post has to say about the majority leader of the Senate in not making all of his employees live under what the rest of the country is having to deal with right now.

I think it is very distressing. That is what we are facing. The country is facing higher premiums. Are people going to not have Christmas because they are, instead, having to use that money to pay their January premium? Are they going to not pay the January premium? How does that play into all this? Are they going to decide: I don't think I am going to have insurance, like my friend from Cody who wrote to me, who has had insurance all of his life but not now.

We have a Senator from Wyoming, the other Senator, the senior Senator, MIKE ENZI. He was one who was also sounding the alarm during this entire debate. He saw the impacts beforehand. It was interesting. There was a letter to the editor in the Powell Tribune, a newspaper in Wyoming, that talked about what we saw coming with this health care law. It was written by someone from Gillette, a Marion Scott. The headline is: "ENZI saw ACA impacts beforehand. . . ." It says:

Dear Editor:

Fox News had a very interesting and informative program Tuesday evening Nov. 6 on "The Kelly Files with Megyn Kelly."

As anyone who watches Fox News knows, they are covering the beginning effects of the Affordable Care Act, also known as ObamaCare, as it is being implemented. Megyn Kelly began her program stating she had a special guest who had predicted three-and-one-half years ago almost exactly what will happen when the Obamacare law goes into effect this October.

Her special guest was our own Wyoming senior Senator Mike Enzi and he had made his predictions in a speech on the Senate floor three-and-one-half years ago. He was then called a fearmonger and radical right-winger.

And he was. That is what they called him, as Senator ENZI went to the floor because of his concerns that you would not be able to keep your insurance. He had actually read the Federal Register, saw the regulations that came out, and he said: Millions of people are going to lose their insurance. He said it from right here at this desk over here. He came to the Senate floor. He said it 3½ years ago, and those on the other side of the aisle voted against Senator ENZI's proposal that would actually let people keep their insurance. It was the regulations regarding grandfathered insurance policies, that people would be able to keep their policies. That was the vote. Those on this side of the aisle all voted to allow people to keep their policies because that is what the Presi-

dent promised them. Folks on the other side of the aisle voted against Senator ENZI's proposal.

But those on the other side called Senator ENZI "a fearmonger and radical right-winger."

It says:

Senator Enzi was probably one of a very few elected officials who had actually read the bill.

Senator ENZI, it says, was one of the few elected officials who actually read the bill. I believe that. Who can forget NANCY PELOSI saying: First you have to pass it before you get to find out what is in it. That video has been played and played again and again. I believe that many of the people who voted for it never did read it. I believe they did not read the bill. I believe they did not really understand it, and part of it is, I believe, they actually believed the President when he said: If you like what you have, you can keep it. If you like your insurance, you can keep it. If you like your doctor, you can keep your doctor. So they took this as an article of faith.

I read the bill. Senator ENZI read the bill. I know a number of our Members who read it were very concerned and came to the floor and spoke about different parts of the bill. I can remember Senator SUSAN COLLINS standing here with her sign about the impact on small businesses and how detrimental it was going to be. I remember Senator Olympia Snowe down here on the floor focusing on how it was going to impact businesses in Maine. Yet all of these concerns that we raised, which are now coming home to roost today, were ignored on the other side of the aisle.

This woman continues and concludes by saying:

With this kind of representation in the Senate I would ask Wyoming voters this question. Is now a good time to send a new Senator to Washington and lose this experience and seniority?

I will tell you, I am proud to stand with Senator ENZI, and he saw it coming. He saw it coming 3½ years ago with the amendment on the Senate floor. We voted that way, and the Democrats voted essentially to confirm that people would lose their insurance. They were not going to be able to keep it even if they liked it.

So these are the problems that continue to plague the health care law, continue to plague folks all around the country, as they are trying to deal with something they never anticipated. You kind of think a year in advance: What is going to happen with our kids? What is going to happen? Are we going to need to do something with the car? Patch a hole in the roof? How do we kind of budget for the year? I will tell you, my friend in Cody, WY, never ever saw it coming that he was going to have to go from \$860 a month to \$2,400 a month for health insurance.

We know that at least 5 million people have gotten letters that they have lost their insurance. For them, I do not think they are going to find it is going

to be a very happy holiday season, a very Merry Christmas. I think they are going to be trying to figure out: Do I have insurance or do I go without it, as what is going to happen with my friend there. Those are the things we are looking at.

Then, of course, there is the Web site. It is just interesting. This is an article in this week's Jackson Hole News & Guide in Jackson Hole, WY. "New health care glitches plaguing Jacksonites. Marketplace insurance companies try to mail paperwork to Jackson street addresses." But they only get mail in post office boxes there.

But that is how the Web site was set up. It was not set up so there would be a separate area if you do not have a street address. They need a physical address, but in some places you do not get mail that way, in many places around the country, in certain rural American locations. But the people who wrote it, the people who did this whole thing were rather clueless about how the country works, rather clueless about what happens in people's homes, in people's families, in people's communities. I am sure they are very smart people and got degrees from advanced places but really do not have an idea of what is going on out there.

I also found it interesting that even when the President tried to tell success stories of people who may have had some success under this, it does not even pan out.

A story on CNN: "Woman Hailed by President as Obamacare Success Story Now Can't Afford Obamacare."

CNN reports that a woman the President hailed as an ObamaCare success story just realized she won't be able to afford ObamaCare because it is too expensive.

It is too expensive. This is the tragedy. This is a national tragedy, this Obama health care law. It was a self-inflicted wound on our country. No foreign enemy did this to us. The President of the United States, who gave speeches that painted a broad picture of a better world, has delivered a much worse world for folks through this legislation.

I think this is devastating to the country, to patients, to doctors, to the nurses, the caregivers, and to the taxpayers. The reason we needed health care reform in the country was because of the cost of care. That is what this was all about, trying to help people get the care they need from a doctor they choose at lower cost. That is what we were really focused on.

So we needed reform. We needed the right kind of reform—reform that actually lowers patients' costs, improves health, and protects the vulnerable. So that means more affordable insurance options. It means helping people with preexisting conditions. It means protecting quality care for older Americans. We do not have any of that with this President's health care law. This is causing costs to go up, causing quality to go down, causing people to lose their doctor. The President, time and

time again, in speech after speech, talked about providing coverage, but not providing care. As a doctor will tell you, there is a huge difference between coverage and care.

This whole thing was predicated on printing up and giving out to people Medicaid cards. Medicaid is a broken system. States will tell you, Governors will tell you, that in many States Medicaid is the No. 1 cost driver of the State. In our home State, it was No. 1 when I was in the State senate. What it meant is that money that went to that then was not able to be used for teachers or schools or students or roads or public safety officers. It is a huge cost driver.

So the issue is we needed to deal with the cost of care. The President says: Put them all in this Medicaid system. What is it? Forty percent—some high number of physicians do not want to take patients on Medicaid because in a sense the reimbursement to doctors who take care of those patients is low enough that you could not even afford to keep the doors of the clinic open if all you saw were Medicaid patients all day.

So doctors want to see and take care of everyone. The idea was to put all these additional people on Medicaid, give them Medicaid cards. But this whole health care law did nothing adequately to address the need for more health care providers. So now you have more people with so-called coverage, but it is empty coverage, it is not quality care because there are not enough people to actually take care of the patients who are now being covered. It is like giving people a bus ticket when there is no bus coming. They can just stand there, but it does not mean they can actually get care. But the President continued to focus on coverage, and coverage does not equal care.

So you take a look at the problems families face with cost and access, and what the President is trying to provide is coverage, but we have seen higher premiums, coverage canceled, which is coverage that worked for many people. Some of these are now being forced into trying to find something. People are losing their doctor and have higher out-of-pocket costs, higher copays, higher deductibles.

You read some of these stories of somebody saying: If I have to pay all this every month, why should I even sign up? Why don't I just pay the fine? Why should I pay all this every month and then have such a high deductible when I am never going to use that much care. Maybe they never will use that much.

So the logic behind this whole thing is baffling to many who have kind of ignored it, I think until now, until October 1 when the Web site went live and subsequently crashed repeatedly. But now they are saying: Hey, I have lost my insurance. That has been the real fracture point, when people see they have lost their insurance that has worked for them. To replace it is going

to be something that does not work as well for them and their families and is going to be more expensive.

So we see the public reaction to the law. It is a reaction related to the premiums, related to trying to use the exchanges, and related to whether employers stop hiring, which we have seen from my friend in Cody, WY. We have seen the issues of reduced work hours because there is the regulation, if you are working more than 30 hours a week you get counted toward that 50 employees. So many businesses have lowered the work hours for people, which affects their take-home pay.

The President had some thoughts on that. He said we will just delay the employer mandate for 1 year. That is the mandate in the law that everyone has to—at work they have to supply insurance to the employees. The President may have had some idea that things were going to get sticky for him and he was going to become a little more unpopular with the individual mandate. So he pushed off the employer mandate for 1 year, unilaterally. When is the law the law and when is the law something that the President can take a page out, throw it away and say: Well, we will move that back a year. It has happened about 14 times in this law.

Even when the House tried to give the President authority to do what he did, the Democrats blocked that. It is astonishing. What about the individual mandate? We are going to be fining people—the government. The President is going to be fining people; whether it is a fine, a tax, a penalty, depending on how the Supreme Court states. That is going to go into effect January 1.

The people may not even be able to buy the product they are being fined for not having come January 1. So is the President going to delay the individual mandate as well? There was a vote in the House, a number of people voted with bipartisan support for that. I think it is going to be challenging in the days ahead for the President to get ahead of the situation the country is facing.

The newest numbers were out yesterday with the signup. The Associated Press reported on that:

Health care signups pick up the pace in November playing catchup with a long way to go. President Obama's new health insurance market last month picked up the dismal pace of signups, the administration reported Wednesday. Employment statistics showed 364,000 people had signed up as of November 30 under the health care law. Although that is more than three times the October total, it is less than one-third of the 1.2 million people officials had originally projected would enroll nationwide by the end of November.

So crunch time is coming. Consumers who are afraid they do not have insurance, they have until December 23, if they want to keep their coverage January 1. But as I said earlier, that is why we are seeing so many people across the country who do have insurance going to doctors now—the doctor they know, the doctor they like—to take

care of problems that may have been kind of put on the back burner but that they would like to have taken care of now because they are not sure what is going to happen January 1: not sure if they are going to be able to go to the same doctor, not sure if they are going to be able to go to the same hospital, not sure if they are going to be able to have insurance, even though they think they may have insurance. Those are the things the American people are facing.

So as we come to the floor to discuss this nominee, the number of questions I have are those related to what she would think about employers changing things, people not signing up, others being forced to sign up; should she have to live under the law of the land as a government employee, when the Senate majority leader says, well, his people—some of his people do, some do not. These are questions one would expect to have answered. I know we are going to vote on that nominee in a couple of hours. But I think this is something the nominee should be thinking about as we take a look at this health care law and the devastating impacts it is having on people all across the country.

Take a look at what is happening for consumers, people who do not work in Washington, people who do not live in Washington. What you see is that the costs are going to be crippling to them. I stand here amazed that that gentleman from Cody, WY, tripled the cost. I do not know that everybody is going to face that. But the President promised that costs would go down. He promised his health care reform would save American families I think he said \$2,500 per year by the end of his first term.

I remember—and I have seen the reel of him saying it—fifteen times he said that. Your insurance premiums will go down by \$2,500 by the end of the first term. Go down? They have gone up significantly, thousands of dollars. They have gone up. This is as he was a candidate running for President. He promised his health care reform would save American families \$2,500 by the end of his first term.

But for many Americans it is driving the premiums way up; in some cases doubling them, in some cases tripling them. It is happening on the exchanges. It is happening for people who are trying to shop not on the exchanges but if they have lost their policy and have to start paying for a lot of other things, whether it is pediatric dental care, pediatric ophthalmology care. All of those things drive up the costs.

That is the sticker shock of the health care law. So as people continue to learn more about the law, they are going to continue to become more and more displeased, which is why I think we are going to go back to this headline: "Health care law hurts President politically." I know for people in this body that is a big deal. For the President that is a big deal, because the last

time I had a chance to speak face to face with the President, he was taking a lot about polls.

But as a doctor, I am more concerned about how the health care law is hurting people's health, hurting their families, hurting their families economically, hurting the help they need, the care they need, interfering with life choices, impacting their quality of life, costing them in terms of disposable income in terms of money they could use for other things, and it is all because of the health care law.

I am going to continue to come back to the floor on a regular basis to talk, not about the Web site failures because that is just the tip of the iceberg. I expect that the Web site is going to get fixed. It is going to take them a while. It is going to take them a lot longer than they ever suspected, because the day it happened, they described the Web site problem as being a result of heavy traffic. We know on that same day, worldwide, many Web sites had much more traffic. The site broke down with I think less than 1,000 people logging on.

But they said it would be fixed almost immediately. It was not. Here we are. They said it would be fixed by the end of November. So they gave themselves 2 months. It was not. Somebody testified not too long ago in the House to say the back end has not been built, there is 30 to 40 percent of it which has not even been put together.

Ultimately the Web site will get fixed, but the higher premiums are going to continue, people trying to buy insurance for their family that meets the criteria the President has set out which is not based on criteria that works for families or necessary for families. It is just these 10 things government has decided that they think they know what is best for families, when I think families know what is best for them and what they would look for with health insurance and health care.

So we are going to continue to face higher premiums. People are going to continue to have their coverage canceled. It is not just the individuals. Next year when the employer mandate goes into effect, when businesses are forced to make a decision: Do I try to buy health insurance that meets all of those high demands that government says has to be included? Do I meet all of that and face these double or triple higher premiums or do I say just go to the exchanges?

People who work, will they lose their employer-based insurance? I think we are going to see more and more of that. Even the Congressional Budget Office, which took a look at this health care law, said it will happen. They said there are employers who will no longer provide insurance who are providing it now. There are different numbers from different assessments as to how many people are going to be forced off their employer-based insurance, how many folks will lose it. I do not know. I have

seen different ranges. But it starts in the low millions and it goes into the tens and twenties and thirties of millions and even higher than that.

So those are the folks who will be losing and having their coverage canceled. Then will those people be able to keep their doctor? The answer there is many will not. Many will not. Many of those who have lost their insurance now are not going to be able to keep their doctor, even if they want to, and even if their doctor wants to keep them.

Doctors do not even know if they are going to be included in a number of these exchanges. They cannot find out, when they go and look and try to see if they can get on the Web site, where are they covered, where are they not included? This has been so poorly thought out and so poorly executed. It has left patients in the lurch, it has left hospitals in the lurch, and it has left doctors in the lurch.

I am astonished that all of those people still have the faith and confidence in the President, which is probably another reason why people do not look to the President now as having either honesty or leadership ability to handle a crisis—to see such a precipitous drop in the view of the President's ability to handle a crisis. Because if they cannot get this right, what happens in terms of a national disaster? How could he respond quickly when he had 3½ years to put together a Web site that apparently he paid very little attention to?

So we are looking at the higher premiums, the canceled coverage, cannot keep your doctor, the higher copays and deductibles are going to continue to plague this country and people. I know people on both sides of the aisle are going to get letters to this effect.

I know the Presiding Officer, when he goes home every night to his home State, hears from people. You stop and fill up with gas, you hear from people. I am hoping other colleagues of ours will actually read their mail, go home, listen to people, to see how devastating of an impact this health care law is having on their lives, their individual lives.

Will there be some people who benefit from this health care law? Oh, yes. But the pain it is causing for millions and millions of Americans is not at all what the President promised them: You like what you have, you can keep it with your insurance. Not true; insurance premiums drop \$2,500. Not true; if you like your doctor, you can keep your doctor. Not true.

So I come to the floor to discuss a nominee who very likely is not going to ever have to be living under the President's health care law, is going to go under some other health program, paid for with taxpayer dollars that those taxpayers are not going to have in their own pockets to pay for their own premiums, while she enjoys a government insurance program paid for in a different way by their taxpayer dollars, where she is likely to be able to

keep her doctor, not be subjected to the higher premiums, not be subjected to canceled coverage, not be subjected to losing her doctor, not be subjected to the fraud and identity theft, and not be subjected to the higher copays and deductibles.

I would say, if it is good enough for the people of America—that is what President Obama wanted for them—if it is good enough for Members of this body, except for those the majority leader said, oh, no, they know what is in it so they do not need to live under it, I think it ought to be good enough for this nominee as well.

I yield the floor and I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. CORNYN. Mr. President, as we continue this week's vote-arama on executive branch nominations, I wish to remind the American people how we got here today and what it means to the future of our great country and our system of government.

Over the last 5 years President Obama and his administration have repeatedly bent the law to serve their own purposes in a way that I think is unprecedented in my experience. We saw this when he gave special treatment to union pension funds during the Chrysler bankruptcy process. We saw it again during the Solyndra bankruptcy. We saw it when President Obama unilaterally announced a moratorium on the enforcement of certain immigration laws. We saw it when the administration unilaterally issued waivers from the 1996 Welfare Reform Act and the 2002 No Child Left Behind law. And, of course, we have seen it multiple times with the President's signature legislative—accomplishment, if you can call it that—ObamaCare, which effectively became a law that means whatever the President wants it to mean. Indeed, without any real legal authority, the administration has unilaterally delayed the employer mandate, unilaterally delayed the income verification required in the ObamaCare exchanges, unilaterally delayed the cap on out-of-pocket expenses, and has unilaterally delayed other insurance regulations.

Meanwhile, the Internal Revenue Service has been hauled into court because it has said that it will flout the text of the law by issuing ObamaCare tax subsidies in the Federal exchange even though the law that Congress passed and the President signed made clear that those subsidies may only be used in the State-based insurance exchanges.

I constantly get asked by my constituents back home whether Congress

can do something about it. My response ordinarily is, well, the Congress under our system of government passes the laws, but it is the executive branch's obligation to enforce those laws. Indeed, that is the oath the President takes when he is inaugurated—to uphold and defend the laws and to faithfully execute those laws.

I think we have seen the kind of havoc that can be wreaked when the executive decides to pick and choose which laws to enforce based on expediency, political or otherwise. We used to say that we are a nation of laws and not of men. Indeed, that is one of our country's—indeed, our economy's—great strengths.

There is a great little book written by a Peruvian economist on the nature of capital, which, of course, is so important to our economic growth. The point he makes is there are a lot of entrepreneurial societies in the world, but one of the things that really distinguishes the U.S. economy and our success relative to those other entrepreneurial societies is the rule of law. It is the things, for example, that mean that when you invest money in a piece of real estate or in a contract or in some other investment, you know with reasonable certainty that investment will be protected against arbitrary action by either government or some other person, which, if you think about it, really is one of the unique characteristics of the U.S. system of laws because we know with reasonable certainty that if those rights are breached, if that investment is stolen, if it is nationalized by the Federal Government, you can go to court and seek compensation for that law-breaking.

Well, if President Obama wanted to continue to legislate in this time and effect from the White House by changing the laws Congress passed, he should have stayed in the Senate. But his responsibility—indeed, his sacred oath—is to enforce the laws even if those laws prove awkward or inconvenient.

One of the other important aspects of being a nation of laws is that if, in fact, it turns out that those laws prove inconvenient or awkward or undesirable for some reason, we have the capacity through the legislative process to change those laws. That is sometimes referred to as a conversation or a dialog that the branches of government have with one another.

So Congress passes laws that the President signs, and then if they are being implemented either by the executive branch or by administrative agencies that are part of the executive branch and they turn out not to have the result Congress thought they would have or the President thought they would have, the great thing about our system of government is we have the capacity to change those laws when they prove to have resulted in unintended consequences or when they prove inconvenient or awkward or otherwise undesirable.

I believe that, notwithstanding the greatest hopes and, I would grant, the

good faith of those who actually thought ObamaCare was going to work—it sounded pretty good. The President said: If you like what you have, you can keep it, and if you think your premiums are too high, the average family of four is going to see their premiums go down by \$2,500. And if you like your doctor, you can keep your doctor. Well, all of that sounded pretty good, especially when you looked at the public opinion polling back in 2009 when the President first started saying those kinds of things because 88 to 90 percent of the people polled said they liked what they had. So when the President said they could keep it, they said: OK; that is fine. I guess this is all about dealing with that 10 or 12 percent of people who had no coverage or who had what they viewed as inadequate or otherwise undesirable coverage.

So I understand that some people may have been lulled into this idea that this is the best thing that has happened in terms of health care delivery in a long time. As a matter of fact, we have talked about this approach for many years. Even before I got to Congress, during the Clinton administration we had HillaryCare. That was another grand scheme to basically commandeer the health care delivery system in the country that, in a way—again, I would grant the good faith of those who actually thought they could make it work, but it didn't work, at least as manifested in ObamaCare. And now we are confronted not with the grand theory and good intentions but with the hard facts and the reality that ObamaCare has proved to be an unmitigated disaster.

Whether you are one of ObamaCare's biggest cheerleaders or whether you were a skeptic like me and voted against it because you did not think it was going to work, I think it is incumbent upon us to try to figure out how to come up with an alternative, to hit the reset button and to pivot to patient-centered health care reform that leaves the choices not in the hands of bureaucrats and the Federal Government but leaves the choices in the hands of hard-working American families and patients, where doctors whom we choose and trust can work with us to come up with the best solutions rather than having the Federal Government say: We have done a cost-benefit analysis, and you are out of luck. You're not worth it. The Federal Government, the bureaucracy doesn't think you should get that kind of treatment.

Well, what I don't want is for any President, including this President, to unilaterally waive or change or refuse to enforce a law for political reasons. And that is what has happened. We have watched the President's poll numbers plummet as the American people, who by and large during his first term of office and now during the first year or so of his second term of office wanted this President to succeed—I think the fact that President Obama's Presidency was historic in many ways, as

the first African-American President ever elected in this country, gave all of us a sense of pride that our country had come so far—over, admittedly, a long period of time but so far that a person who back at the beginning of our country might have been considered less than a fully human being would now be the President of the United States. That gave us all hope in the future and hope in this great experiment known as America, to have the first African-American President of the United States.

So this President was elected in 2008 and reelected in 2012 with a huge reservoir of good will and hope that he would be successful. Indeed, all of us, regardless of our political stripes—whether we are conservatives or liberals, whether we are Independents, Republicans, or Democrats, we are Americans first and we want America to succeed. That is what we want more than anything.

It is also important to remember that our system of government is important to our success over these last couple of centuries and that we haven't gotten here by accident. We have gotten here because of our Constitution, because of the genius of checks and balances between coequal branches of government. That is a lesson this President seems to have forgotten; that too often he decides to go it alone or do an end run around Congress because he can't get what he wants.

Well, we are not guaranteed, any of us, in political life or in life in general, to get everything we want. We know that particularly when it comes to legislation—things like health care reform—nobody gets everything they want if, in fact, it is going to be a bipartisan product.

But rather than attempting a bipartisan product, this President and our friends across the aisle decided to jam the American people and to jam the minority party in Congress and to pass a law which now they own lock, stock, and barrel.

Again, I am willing to concede the good faith and good intentions of those who thought this would work, but now we have gone from theory to evidence and experience, and we know it hasn't worked.

Well, thankfully, in our three coequal branches of government, we have not just the legislative branch that passes the laws and the executive branch that is supposed to enforce the laws, we have a third branch of government; that is, the judiciary. And they have done their part—but they are not through yet—to stop executive overreach and uphold the rule of law.

I have heard some of our colleagues say: Well, the Supreme Court has upheld most of ObamaCare and it is the law of the land—as if it is somehow sacrosanct and can never be changed. Well, that is just not true, at least not under our system of laws. As I said to begin with, if we find that the laws we passed result in consequences we did

not intend or we find that the American people are dissatisfied with it and it leads to undesirable results, we can change it, and that is the way our system works.

We are not bound forever by any law. We can change them because that is the way our system works. So when people say it is the law of the land, get over it, move on down the road, that is not an American perspective, at least under our Constitution.

As I said, we have seen a number of times where this President and this White House have simply ignored laws, refused to enforce laws, and overreached. For example, the District of Columbia Circuit Court has demanded that this administration follow the law on issues related to corporate governance, emissions requirements, recess appointments and the disposal of nuclear waste. This is the same court that this majority leader, Senator REID, and his political party have decided to stack. They decided to break the rules of the U.S. Senate that have been in effect a long time in an overt power play in order to stack this second most important court in the Nation, the DC Circuit Court, by breaking the Senate rules in order to deny the minority a voice in the confirmation process and to confirm these nominees in what we are engaged in this week, which is another overt power play.

But the stated reason for doing that, and the supposed necessity of doing that, is because the senior Senator from New York, the majority leader, and others say they are not happy with the way the DC Court of Appeals has ruled on cases involving the Obama administration. But as I said a moment ago, in at least four of these big areas, the DC Circuit Court has upheld the administration's point of view in important appeals before the court.

At the same time, the DC Circuit Court has also ruled in favor of the administration on some issues related to health care, embryonic stem cell research, and several other major environmental matters. But notwithstanding those successes in terms of policy approval by the DC Circuit Court of this administration's policies and of the bureaucracy's interpretation of those policies, we know that the majority leader was bound and determined, along with his allies in the other party—that they were bound and determined to make sure the DC Circuit Court of Appeals would issue no rulings which would undercut or fail to enforce this administration's policies. So they decided to pack this court, which is what this process we are engaged in this week is all about, with ideological allies who would rubberstamp their agenda.

When the minority in the Senate—and, by the way, I am not just talking about my rights or Senators' rights. We are just representatives. I represent 26 million people. When the majority leader shuts me out of the amendment process or the opportunity to have a

say in the advice and consent over the nomination of judicial nominees or executive branch nominees, he is not affecting my rights per se but the rights of 26 million Texans, to have their voice heard in this process. That is something he ought to think about and reconsider.

We know the nature of the Senate has been fundamentally transformed under the leadership of Senator REID. When I first got to the Senate, which was a while ago—it doesn't seem like that long ago, but it has dramatically changed—we had an open amendment process. We would actually have bills come to the floor, legislation such as the national defense authorization bill, and we would spend up to 3 weeks debating and offering amendments on that important piece of legislation. As we have heard at different times, the national defense authorization bill is viewed as so important by both political parties and by the entire Senate that we have passed a Defense authorization bill for I think at least 50 consecutive years. That is quite a tradition. But instead of doing that, Majority Leader REID decided to cut off the opportunity for the minority to offer amendments to this important piece of national security legislation.

When we were able to block cloture in order to protest that in order to provoke, hopefully, a negotiation which would result in a process whereby minority rights would be respected and an opportunity to amend this legislation provided, now we learn that as part of this end-of-the-year sprint to Christmas, that in addition to jamming through these nominees, the majority leader's intention is to take a bill that was basically negotiated among four Members of Congress, that would be the four Members of the Armed Services Committee, both the chairman and ranking members on both sides of the Capitol, to fill up the amendment tree, file for cloture, and pass it in the last week we are in session.

It is beyond outrageous, this transformation in the Senate. I think what shocks many of us the most is that Majority Leader REID is an institutionalist, and by that I mean it as a compliment. He has been in the Senate a long time. He understands how the Senate works and why the Senate rules are so important. Yet nobody in my memory has done more to undermine the institution of the Senate and its rules and traditions than the current majority leader. For what purpose? For short-term gain.

Why do I say it is short-term gain? They can get away with it when they are in the majority, but it is temporary, because during the time I have been in the Senate I have been in the majority and I have been in the minority. I have to admit, being in the majority is a lot more fun. But in other words, what I am saying is this short-term power play by the majority party in the Senate to break the Senate rules, to jam through legislation and to

deny my 26 million constituents in Texas an opportunity for me, on their behalf, to offer amendments to important legislation affecting the national security of the United States is an outrage. It is an outrage.

I will give just one example. Four years ago at Fort Hood, TX, Nidal Hasan, a major in the U.S. Army, killed 11 people and wounded about 30 more. This is about 4 years ago. You will remember it. The reason it took so long for him to be brought to justice—I am not sure I understand exactly why—but there was some concern, and a concern I shared, that if we identified this for what it truly was, which is a terrorist attack on our own soil, it might undermine the fairness of his trial and give him some grounds to appeal and perhaps escape the just punishment for what he did.

Major Hasan, when there was initial review of what he did and evidence that he had shown absolutely clear signs of being radicalized and joining the fight of Islamic extremists against the United States of America, against his own government, that those were completely ignored by the military, by the Army, in an exercise of political correctness. Even though he stood up that day and he said Allahu Akbar, “God is great,” in the traditional cry of Al Qaeda and Islamic extremists and others who were bent on suicide and homicidal acts, initially when that was reviewed, the conclusion by the politically correct police here when they reviewed it was this is workplace violence. In other words, they refused to call it what it was, which was a terrorist act on our own soil.

I do not fully understand the reticence to identify it for what it is because we all know we had at least one other major terrorist attack on our own soil on September 11, 2001, when approximately 3,000 Americans were killed by one of the most horrific terrorist acts to occur in our lifetime and hopefully ever—hopefully it will never occur again.

After that, the Department of Defense decided to use its discretion to award the people who were injured or killed in that incident the recognition and benefits they deserved under our laws—Purple Hearts and other death benefits. But when I and my colleagues on the other side of the Capitol, Congressmen JOHN CARTER and ROGER WILLIAMS, sponsored legislation to recognize that this attack at Ford Hood that cost the lives of 11 Americans, including 10 members of the U.S. military and 30 more people were shot and injured, many of whom bear those wounds even today—when we filed legislation on the national defense authorization bill in order to amend that bill in order to give that same recognition to these 11 Americans who lost their lives and the 30 more who were injured in that terrorist attack on that day at Fort Hood, TX, in Killeen, TX, some 4 years ago, that amendment has been shut out of this process.

Do not be confused. This is not about denying me my rights as a Senator. This is about denying those 11 Americans who lost their lives that day justice, and the 30 more who survived that attack, the benefits they are entitled to by virtue of being a victim of a terrorist attack on our own soil—again.

There are real human consequences to the machinations of the majority leader and this revolutionary change in the nature of the Senate, denying the rights of the minority to be heard and to offer legislation on behalf of our constituents. That has such far-reaching impact.

In many ways I think what we are experiencing this week and what we have experienced recently is an attempt to distract the American people from the train wreck known as ObamaCare. If I had voted for the President’s signature legislative proposal and I was one of the Democrats who voted for it, since no Republican voted for it, I would want to change the subject too. As someone who served in this Chamber for 11 years, it saddens me that our Democratic friends choose to obliterate the Senate rules and gravely weaken minority rights for petty partisan reasons. Again, it is so shortsighted it is just unimaginable. It is as if Members of this body have attention deficit syndrome, where they are so focused on immediate gratification that they forget or they ignore the long-term consequences of this revolutionary change in what once was called the world’s greatest deliberative body, which is no more the world’s greatest deliberative body, at least under this majority leader and under his rule-breaking regime.

Over the years leading up to last month’s showdown, the majority leader repeatedly promised not to use the nuclear option. Again, I know this is about process. The eyes of the American people begin to glaze over when we talk about the internal processes and operation of the Senate. But as I attempted to demonstrate a moment ago, they have real-world consequences. Tell that to the people back at Fort Hood who lost their family member in this terrible terrorist attack on our own soil, committed by an American citizen wearing the uniform of the U.S. Army, where he joined the enemy, Islamic extremists, was radicalized by the same person who essentially tutored the Underwear Bomber who was arrested in Detroit, who tried to blow up another airplane on that day. Those people are the ones who are suffering the negative impact of the undermining of this institution by the majority leader. Well, the majority leader repeatedly promised not to use the nuclear option, but he broke that promise.

My experience in public life is—again, we all have different ideas about how to accomplish our goals and hopefully improve life for the American people, but one of the things that are even more important is the personal

relationships between Members of the Senate.

There is a lot of good work that can get done when there is good faith and trust between Members of the Senate, and, indeed, those are not the kinds of things that typically make their way into the newspapers or that people pay much attention to because they are done quietly behind the scenes, cooperatively and collaboratively. But when the majority leader—the leader of this institution—breaks his word repeatedly about undermining the Senate rules in a partisan power grab, it necessarily undermines the trust that has come to be the important glue to this institution, and because it is important to this institution, it is important to the country. When we learned that trust is unjustified and that his promise is hollow and meaningless—well, it reminds me of another American who has made extravagant promises to the American people that were obviously false and could not and cannot be relied upon. I am talking about the President’s promise in ObamaCare that if you like what you have, you can keep it. I saw a poll recently that said 37 percent of the respondents in that poll believe the President is honest and trustworthy.

I didn’t vote for this President, but he is still my President. The ability of the President of the United States to actually govern and to be respected—not only here in America but around the world—and viewed as a person of character and substance, well, it is completely undermined by the kinds of false promises this President has made in ObamaCare.

It is not just limited to health care; it has broad ramifications and a huge ripple effect. In terms of the way that, for example, Bashar al-Assad in Syria used the President’s redline on the use of chemical weapons—if Bashar al-Assad thinks this President is not going to be honest or trustworthy in terms of his statements, then his threats of a redline simply will not be believed.

It is the same thing in Tehran, where 19,000 centrifuges are spinning and enriching uranium in Iran’s pursuit of nuclear weapons—a goal which, if achieved, and which is not too far off in the distant future, will destabilize the Middle East and will threaten not only a regional war but a larger conflict because if Iran gets a nuclear weapon—Iran is not just any average nation state. It is a state sponsor of international terrorism in the form of Hezbollah and other support, particularly directed at our ally and friend, the nation of Israel.

Iran has been killing American soldiers in Afghanistan and Iraq for many years through their training and support for our more obvious adversaries there, through the design and importation in Iraq, for example, of explosively formed penetrators that will melt through the metal of our vehicles and other protective armament that our

military uses and, as I said, resulted in the deaths of multiple American GIs. So Iran is not our friend.

So when the President says: This is another redline, well, our enemies can read our newspapers. They read the same polls we read. They see a President making false statements that cannot be relied upon, and it undermines his credibility when it comes to our enemies—people who want to wipe Israel off the face of the map. That can have very dangerous consequences, obviously, because when people don't believe what America says through the voice and in the person of our Commander in Chief, the leader of the free world, it emboldens our enemies.

They push the envelope in North Korea, Iran, Syria, and other places around the world. This is not a minor issue. When the President acts as if the law does not apply to him and if the law means just what he says it will—meaning at any given moment—it is as if the law doesn't really matter and his word cannot be trusted.

Just a few other thoughts on how ObamaCare was passed. I remember being in this Chamber on Christmas Eve in 2009. I think it was 7 in the morning. It may have been 7:30 in the morning when we had the vote on the ObamaCare passage—at least the initial passage. It passed with 60 Democratic votes and no Republican votes.

I often pointed out that before ObamaCare, every major domestic reform in modern U.S. history—from civil rights, to Medicare, to welfare reform, to No Child Left Behind—enjoyed significant bipartisan support at the time of its passage. Why is that important? Well, because ObamaCare was a pure partisan power play. It was shoved through on a party-line basis without a single Republican vote and despite high levels of public opposition.

I remember people were told: Well, we just haven't done a very good job of messaging and explaining or when ObamaCare is implemented, people will learn to love it. Well, we now know that jamming through legislation which basically commandeers one-sixth of the American economy is a recipe for disaster. It is a bad way to pass any major law, let alone a measure that affects everyone in the country because our health care delivery system affects every man, woman, and child in our country.

ObamaCare is a part of a broader pattern that should be deeply disturbing to anyone who cares about our Constitution and the checks and balances that the Framers of our Constitution knew would be so important to maintaining consensus and maintaining balance.

Today's Democratic leaders seem to believe that might makes right and that inconvenient legislation can be swept aside by Executive fiat and that when the Senate rules prove to be an obstacle to obtaining what they want, such as stacking the second most important court in the Nation in order to

be a rubberstamp for the bureaucracy's ideological zeal, well, they can sweep aside those rules too.

This debate is about far more than policy differences. It is about the respect for the rule of law and respect for our Constitution, it is about preventing the executive branch from running roughshod over Congress, and it is about safeguarding the constitutional government.

If we need any more examples about the Obama administration's abuse of power, I am prepared to provide that. We know the Obama administration showed contempt for the normal legislative process in a number of ways. When Congress refused to enforce card check for labor unions, the administration turned to unelected bureaucrats at the National Labor Relations Board, the NLRB. When Congress refused to, on a bipartisan basis, pass cap-and-trade energy taxes, the administration turned to unelected bureaucrats, the Environmental Protection Agency. Indeed, now President Obama has authorized the EPA to regulate virtually every aspect of the American economy without congressional approval even though the EPA itself has acknowledged that its proposed greenhouse gas rule would not have a notable impact on carbon dioxide emissions during the next decade.

The Obama administration is acting in a lawless manner in other ways as well. In early 2011, more than 2 years before the Supreme Court ruled on the Defense of Marriage Act, President Obama ordered his Justice Department to stop defending the law even though it was passed with an overwhelming bipartisan majority of Congress. It was signed into law by President Bill Clinton and broadly supported by the American people. The right way to deal with that is not for the executive branch to refuse to enforce the law, but it is to come back to Congress and say: You know what. We think things have changed. Congress ought to reconsider.

Rather than do that, the President decided to have the Justice Department refuse to enforce the very law Bill Clinton signed.

Then there is the Independent Payment Advisory Board. This is part of ObamaCare—one that perhaps has one of the most pernicious impacts because what it does is it puts unelected bureaucrats in charge of deciding health care for your mother, your father, your grandmother, or your grandfather—in other words, whether Medicare beneficiaries can get the health care they need. How do they have an impact? Well, these 15 bureaucrats, under this ObamaCare-created bureaucracy, will have the authority to decide what sort of health care Medicare pays for. This is just a way to ration access to care. So if these 15 bureaucrats on IPAB—the Independent Payment Advisory Board—say: You know what. We think you are too old; we don't think it is worth it for you to get a hip replacement so you can walk and be produc-

tive and mobile; we don't think it is worth it for you to get bypass surgery; we are not going to pay for it, the Federal Government will not pay for it, and so it will not be delivered.

What is worse is that IPAB's recommended Medicare cuts automatically take effect unless a congressional supermajority votes to cut health care spending by an equivalent amount.

Columnist George Will said:

This is a travesty of constitutional law-making: An executive branch agency makes laws unless Congress acts to achieve the executive agency's aim.

This is the Constitution turned on its head. Indeed, IPAB makes a mockery of our constitutional system of separation of powers, and it should be repealed immediately.

Not only has the administration used unelected bureaucrats to sidestep the normal legislative process and disregarded the rule of law for transparently political or ideological reasons, it has also fostered a culture of deception and intimidation.

One example is Operation Fast and Furious. This has particular impact to my State, which is a big border State. My colleagues will recall that Operation Fast and Furious was this bone-headed idea wherein the Bureau of Alcohol, Tobacco, Firearms and Explosives would actually allow weapons to go from American gunshops into the hands of the drug cartels without interdiction. I guess the idea was once they got in the hands of the cartels, we would somehow trace them and know who the bad guys are, but it broke down along the way. So many of these guns were simply not recovered and no doubt have been used to kill many people in Mexico, as well as an American citizen, Border Patrol agent Brian Terry, 3 years ago.

Attorney General Holder, who is administratively responsible for the Bureau of Alcohol, Tobacco, and Firearms, repeatedly obstructed a congressional investigation into Fast and Furious, and his sworn testimony was repeatedly contradicted by the Justice Department itself, by their own memos. One DOJ official—a U.S. attorney in Arizona—tried to smear a whistleblower by leaking a private document. The Department of Justice's own inspector general called this behavior inappropriate for a Department employee and wholly unbecoming a U.S. attorney. A separate DOJ official was forced to resign her position after she was caught collaborating with leftwing bloggers to slander both whistleblowers and journalists.

Then there is the IRS scandal. It is almost hard to keep up with all of the scandals, but we can't let these get away from us because they are so important to get to the bottom of one of the most important governmental bodies in the U.S. Government, and that is the Internal Revenue Service that, again, touches all of our lives. We found out, of course, that IRS agents were deliberately targeting people

based on their political views. At least one conservative activist, Catherine Engelbrecht from Houston, TX, was targeted by multiple agencies, including the IRS, the FBI, the Bureau of Alcohol, Tobacco, and Firearms, and the Occupational Safety and Health Administration, OSHA.

We also know the administration—or at least the bureaucracy—has targeted political donors. The 2012 Obama campaign bullied private citizens who donated money to Gov. Mitt Romney, including a man named Frank VanderSloot whose experience was chronicled by Kimberley Strassel in the Wall Street Journal. In April of 2012, Mr. VanderSloot found himself, along with seven other Romney donors, condemned by an Obama campaign Web site for being “less than reputable.” The Web site suggested that quite a few of the eight donors had placed themselves on the wrong side of the law and had gotten rich at the expense of so many other Americans. Mr. VanderSloot was singled out because—or I should say he was singled out as a “bitter foe” of the gay rights movement.

Mr. VanderSloot didn’t run for public office. He didn’t volunteer to be treated like this. He is an American citizen who was engaging in a constitutionally protected right to provide financial support to a political candidate of his choosing. Rather than keep the fight on the political opponent—Governor Romney—the Obama campaign went after the donors. Mr. VanderSloot didn’t have a criminal background, nor did any other of the Romney donors who were similarly targeted. But shortly after he was denounced by the Obama campaign in this manner, a Democratic opposition researcher began researching his divorce records. Meanwhile, the IRS decided to audit 2 years’ worth of his tax filings, and the Labor Department announced a separate audit of the immigrant workers employed at his cattle ranch.

As Kimberley Strassel wrote for the Wall Street Journal: “Every thinking American must henceforth wonder if Mr. VanderSloot has been targeted for inquiry because of his political leanings.”

We also know this administration has harassed journalists. Although President Obama said this administration would be the most transparent administration in American history, it has proven not to be so. In the case of FOX News correspondent James Rosen, the Obama Justice Department tracked him down like a common criminal simply for doing his job. The Department of Justice tracked Rosen’s movements, got a search warrant to examine his private emails, and even obtained his parents’ phone records. This is a journalist. As a Washington correspondent for the New Yorker magazine noted: “It is unprecedented for the government, in an official court document, to accuse a reporter of breaking the law for conducting the routine business of reporting on government secrets.”

We also know the Obama Justice Department has conducted a disturbingly intrusive investigation into the phone records of journalists who work for the Associated Press, and, as I said, displayed an unprecedented level of contempt and obstruction for the Freedom of Information Act.

Washington lawyer Katherine Meyer has filed FOIA cases under six different administrations dating back into the late 1970s. FOIA is the shorthand for the Freedom of Information Act, of course. Last year, she told Politico that “this administration is the worst on FOIA issues—the worst.” So much for the President’s claim to be the most transparent administration in this Nation’s history.

In 2011, the Obama-Holder Justice Department received a mock award from the nonpartisan National Security Archive which said that the DOJ had shown the “worst open government performance” of any Federal agency that year. This is the agency that is supposed to enforce the Freedom of Information laws, and it was recognized as demonstrating the “worst open government performance” of any agency that year. Among other things, the Department of Justice was cited for its mistreatment of whistleblowers and its efforts to undermine the Freedom of Information law.

Speaking of whistleblowers, we know the State Department has also punished U.S. diplomats for cooperating with congressional investigators looking into the September 2012 terrorist attack that killed four Americans at Benghazi, Libya. This is so outrageous that it bears recall that Susan Rice, the President’s U.N. Ambassador, showed up on five, I believe it was, Sunday morning talk shows and claimed the attack at the American consulate in Benghazi that took the life of four Americans was precipitated by a video that was deemed to be disrespectful of the religion of Islam. It turns out that wasn’t true, and for a long time the administration denied this was even a terrorist attack—something which it now acknowledges. But when people come forward, such as the whistleblowers, diplomats who knew the Ambassador and those who lost their lives on that terrible night in September of 2012, then they are punished, not welcomed as truth tellers, to get to the bottom of this terrible incident in Benghazi, Libya.

Then we know that further intimidation continued with ObamaCare in 2010. Actually, this preceded the Benghazi intimidation. In 2010, various health insurance companies began alerting their customers that ObamaCare was going to force them to raise premiums. This is back in 2010. Fast forward to 2012. That is what has happened. So first of all, people saw the Web site was a problem and now that is getting fixed, and now they are experiencing cancellations, and then there is the sticker shock where their premiums have gone up. In 2010, when the insurance indus-

try tried to tell their own customers their premiums are going to go up because of this law, Kathleen Sebelius, the Secretary of Health and Human Services, responded by threatening to punish these companies and bar them from participating in the ObamaCare exchanges.

It is quite remarkable. I think in any other context we could call this thugery, intimidation, abuse of power.

A few years later, we learned that Secretary Sebelius was shaking down private companies to help fund the implementation of ObamaCare because Congress, believing it had been misled in so many instances regarding ObamaCare, had refused funding. It is very disturbing to learn that the same IRS official who led the division that targeted people because of their political beliefs is now in charge of administering large portions of ObamaCare.

As I said a moment ago, one of the biggest casualties in all of this—particularly as it relates to the false promises of ObamaCare—is the President’s own credibility. The other day I had a chance to speak on this topic and I said, “ObamaCare is the single biggest case of consumer fraud in American history.” Anybody else under any circumstance would find themselves hauled into court and be called to account. If a private citizen or a private company had spoken out, they would be sued for money damages. They would likely be put out of business because there would be an injunction granted or perhaps punitive damages.

When the President speaks on behalf of the United States, whether it is in domestic affairs such as ObamaCare or whether it is on international matters such as the red line on chemical weapons in Syria or the red line on Iranian nuclear aspirations, it should count for something. But according to a new NBC Wall Street Journal poll, only 37 percent of Americans give President Obama a “very good” rating for “being honest and straightforward”—37 percent. That compares with 63 percent in January of 2009. So the President’s reputation for honesty went from 63 percent in January 2009 to 37 percent on December 11, 2013, or at least that is the date the Wall Street Journal and NBC reported the results.

We know when the President’s approval rating—particularly his approval rating for honesty and truthfulness—is damaged, all of those who trusted the President as he led them down the gangplank with the implementation of ObamaCare are bound to get pretty nervous, because while the President was able to move the actual implementation of ObamaCare past his own reelection in 2012—this law was passed back in 2010. Yet the President himself was able to avoid accountability, by and large, by pushing the implementation past his election in November 2010. But 2014 will be a mid-term election. The President will not be on the ballot, but his allies will be on the ballot—people who trusted him,

as he told them and he told the American people that you are going to be able to keep what you have if you like it, even though he knew it wasn't true. We know that from as far back as 2010.

Senator MIKE ENZI led the effort to expand the grandfathering flexibility in the Health and Human Services rules, and that was defeated on a party-line vote. All of our Democratic friends voted against expanding the flexibility of these grandfathering provisions back in 2010 when HHS and, indeed, the Congressional Budget Office estimated that as many as 78 million Americans on employer-provided plans would find they would no longer be able to keep their coverage either.

So there is going to be a day of accountability in November of 2014, as those who, perhaps unwisely, trusted the President, who believed in this big government scheme that simply has not worked—and that many of us believed would never work—there will be a day of accountability.

My hour has come and gone, and I see the Senator from Oklahoma on the floor. In conclusion, I ask unanimous consent that a summary of stories from Texans who have been affected by ObamaCare be printed in the RECORD.

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

STORIES FROM TEXANS WHO HAVE BEEN
AFFECTED BY OBAMACARE

TEXANS CONTINUE TO WRITE IN WITH PAINFUL
STORIES OF HOW OBAMACARE HAS AFFECTED
THEM AND THEIR LOVED ONES

My husband and I are self-employed. We have coverage through BCBS of TX. Our current premium for us and our 2 children is \$854 per month. Our premium was raised to \$854 from \$814 three months ago. We have a \$6000 family deductible, and an out of pocket amount of \$12,000. We have been very happy with our policy. However, I created an account on healthcare.gov to see if we could get a cheaper policy with similar coverage.

The cheapest insurance coverage offered on the website is a Bronze package with 60% coverage and monthly premium of \$1189. This is the cheapest policy with less coverage than what we currently have!

TEXAS RESIDENT,
Austin, Texas.

"I worked 34 years for AT&T/Lucent/Avaya and took an early retirement in 2001 with pension and healthcare. I became Medicare eligible this year as I turned 65, however my wife is only 59 and remains on my employer group plan. This month we were notified that Avaya would stop providing all pre-65 healthcare to retirees and their dependents. Living on fixed income this additional expense is taking me out of the middle class and putting me financial jeopardy for my remaining years."

DON WHISENANT,
Mesquite, TX.

"Because of health conditions, both my wife and I are in the Texas State High Risk Pool and have been for at least 12 years. Now because of Obamacare, at midnight on December 31st, we are no longer going to be covered by an insurance policy that covers my heart condition and my wife's epilepsy. While the State High Risk Pool is expensive (\$2300.00/month) it is about half of what ACA is, our \$1000.00 deductible will jump to over

\$7000 and possibly up to \$10,000.00 with half the benefits. This law needs to be repealed."

CHUCK MARSH,
Canadian, TX.

I am one of those whose plan was canceled. I have a high quality, admittedly high deductible, PPO plan from a major carrier. There is nothing discount or low quality about it. The ACA offering is for the same coverage and the same deductible. There are two differences in the ACA plan from mine. The first is that it includes maternity and pediatric care, which in our fifties my wife and I don't need. The second difference is the ACA plan premium is 65% more per month than my current plan.

The president said I could keep my plan, at 65% less for the same high quality coverage offered by the ACA option I want to keep it. For Americans who have to purchase their health care independently, the ACA is deeply flawed. Please help.

GLENN BARLOW,
Plano, TX.

Obamacare has caused my mother to lose her insurance because she no longer meets the minimum for coverage. My father went back to work for insurance and his company won't give it to him because he is older than 65 so he has to go on Medicare. Most doctors in his area won't take it and the ones that do offer sub-par care. He needs a hernia surgery and they won't cover it because of his age. No one wants a hernia surgery unless they need it. My husband switched jobs for a pay raise. It ended up being a pay cut because of the crippling cost of insurance. We now pay close to \$24,000 a year for insurance and we can't afford to use it because it covers so little. We were promised all these things wouldn't happen.

CHRISTINE ROBINSON,
Round Rock, Texas.

I am writing to add my name to the growing list of your constituents that will be canceled from coverage next year. I am self-employed, a small business owner insured through Blue Cross Blue Shield Texas. Apparently my current plan is 'substandard' as it does not offer maternity coverage. Something you can imagine is vitally important to a single male of 54 years age.

ANTHONY DEVITO,
Fort Worth, TX.

"We get our employee coverage from Pepsico the #43 company on the Fortune list. Everyone enrolled with our BCBS was canceled.

That policy is not what you seem to expect. We had birth control, prenatal, substance abuse, psychiatric, family counseling, chiropractic. In the last 3 years they paid out over 300,000 dollars for me alone in things like open heart surgery, new corneas, 21 days in the hospital, 5 days in ICU. In total for those 3 years I paid 7,500 and they paid 300,000+. That is NOT the sub-par insurance that Obama says he canceled.

I was canceled because it isn't ACA compliant. The replacement is much higher and the deductible is 1250 and the out of pocket is 6,000. If my next 3 years is like the last 3 it would cost me 21,750 instead of 7,500. How is that better?"

CLINT McLAUGHLIN,
Dallas, TX.

Mr. CORNYN. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, I enjoyed listening to my colleague for Texas. I will just comment to him, we are just beginning to see the series of

untruths about what the President and his allies have said about this bill. I practiced medicine for 25 years, I delivered over 4,000 babies, I had a broad-ranging general practice, and I was belittled on this floor for the statements that are now coming true by the very colleagues who voted for the unaffordable care act.

Let me just outline for you four things that are going to be untrue.

You cannot keep your insurance. Whether you like it or not, you are not going to be able to keep your insurance. You cannot keep anything. I am going to read a story in a minute about a young man who could not afford his employer-based plan but went shopping, had a vasectomy so he could qualify for his insurance because it did not have maternal coverage. They did not want more children. His wife wanted to stop working. He had a wonderful plan. He cannot do it now. Now he cannot get insurance because he cannot afford it, and he makes about \$500 too much to qualify for any subsidy.

So you cannot keep it.

The second thing is you cannot keep your doctor. I am experiencing that right now. MD Anderson in the Senator's own State is not covered by any of the plans. I have had a recurrence of cancer. My doctors now are at MD Anderson. I cannot use them under the unaffordable care act, unless I want to go and spend \$70,000 or \$80,000 on my next procedure out of my own pocket. I will have to go somewhere where the care is not what I would deem it.

The third untruth is every family is going to save \$2,500. It is going to be about the opposite. Because everybody is going to be spending about \$2,500 more.

Then, finally, what I was belittled on, that the quality of care is going to go down when they said the quality of care is going to go up. Access is going to be harder, not easier.

So when the American people really find out—the intention behind trying to fix health care was a good one. The system was broken. We do need to do things. But the untruths associated with this attempt to micromanage people's lives in a market—that was not perfect—I want to tell you, this is going to be so much worse than what we had in terms of real care and real outcomes. When it comes to individuals, most important is the relationship between the doctor and the patient. It is not just for the patient. The doctor having a relationship with the patient makes for much better judgments in terms of the quality of care they give and the insight into caring for the whole of that person. We are wrecking that. We are going to wreck that.

Mr. CORNYN. Madam President, will the Senator yield for a question?

The PRESIDING OFFICER (Mrs. McCASKILL). Without objection, it is so ordered.

Mr. COBURN. I am happy to yield.

Mr. CORNYN. I just ask my colleague, I am aware of his own experience that he just recounted here with

the fact that MD Anderson—the world class hospital located in Houston that is really the premier cancer treatment facility in America and perhaps even in the world—they are not in the exchanges so the Senator cannot continue his treatment there.

Can the Senator explain how that happens because I think a lot of people think if they like their current doctor and they like their current hospital facility, they are expecting that when they sign up for ObamaCare they are going to be able to continue to see that doctor and go to some same high-class health care facilities. How did that happen?

Mr. COBURN. I have not researched it yet. I guarantee my colleague, I will research it, and I will find out. But the fact is, the leading cancer centers—Sloan-Kettering, the same thing—the leading cancer centers in this country probably could not reach an agreement at a price low enough that would pay for their costs for this advanced cancer care, so they did not offer them a contract because they would not cut their prices enough for the insurance.

So here is the main point. We promised to increase access. What you are really seeing is decreased access. I cannot go to Chris Logothetis. The No. 1 urologic oncological specialist in the United States—I cannot go see him under my insurance. I can. I am fortunate enough. I had a career before I was in the Senate. I will pay. But think about how many people are not going to be able to see Chris Logothetis and go to MD Anderson and have their life saved through the latest advances in pure biochemical and medical research put forward by a lot of people from Texas; some money from the NIH, there is no question; some from the Milken Institute, private money that has gone into research. We all seem to think that NIH is the only one who funds research around this country. There are a lot of entrepreneurs who fund tons of it.

So as to this idea of access, we can say you are going to have access. It is just like in Medicaid. Oklahoma chose not to expand Medicaid, and I agree with that. The reason is we are never going to send the States the money. It is an impossibility, if you look at our budget situation, for us to ever keep the promise that the unaffordable care act said we would do for the States.

But here is what is happening: People who are going to be signed up for Medicaid—and there is a whole other story about people who are put in Medicaid who are not eligible and will not be able to sign up who the whole system has kicked wrongly into Medicaid—you can sign up for Medicaid. Where is your doctor? Seventy-five percent of the doctors in California are not even going to sign up for the Affordable Care Act.

In Oklahoma, a recent survey said, of the doctors over age 52, 60 percent are retiring in next year. Age 52—our best doctors, the ones with the most experi-

ence, with the most gray hair. They have seen it all. They have the best differential diagnosis. They are hanging it up.

Now we have all these rules coming with the Affordable Care Act on what you have to do on electronic medical records. You have ICD-10—66,000 codes now versus 10,000 that the doctor is responsible for picking. What we have is a mess on our hands.

The final fifth lie is the denial of the problems that ObamaCare, the unaffordable care act, has caused and sticking our head in the ground and saying: Well, it is not causing any of those things.

It is going to be the most disruptive thing that has ever happened in this country to one-fifth of our economy.

Mr. CORNYN. Will the Senator yield for one other question?

Mr. COBURN. I would be happy to yield.

Mr. CORNYN. To the Senator's point about Medicaid, in Texas, I believe the number is basically only one out of every three doctors—about a third of doctors—will see a new Medicaid patient because it reimburses at about 50 cents on the dollar of what a private insurance plan will. I know there is the problem of coverage versus access that the Senator alluded to. But I wanted to just ask the Senator about that sometimes our friends who supported this legislation said: If you care about getting people with preexisting conditions coverage or if you care about young people being able to stay on their parents' health insurance coverage, you have to take the whole enchilada; in other words, you have to accept all 2,700 pages of ObamaCare, and that is the only way you could address these concerns.

Are there ways to address some of these legitimate concerns, such as preexisting conditions, without embracing all of ObamaCare?

Mr. COBURN. Sure. One of those things is adverse selection, where sicker people raise the costs for everybody in the pool. But if, in fact, you looked at the Nation as a whole, and you had a law that said for any insurance company that is cherry-picking only healthy people, a portion of their profits will go into a pool at the end of the year for people with high-risk illnesses, that is what Switzerland does. It works wonderfully. What it does is it changes the behavior of the insurance company. They cover everybody.

So the whole idea behind insurance is to spread the risk. We did not have good risk rating. There is no question we need to address it. The Senator was on a bill with me, the Patients' Choice Act, which actually would not have created any of this mess and actually would have created a market with some of the parameters that would have spread the risk and had real indemnification in the country, but also would have had market forces driving it and still let you choose what you want.

The biggest problem with the unaffordable care act is it takes any discretion away from you about what is best for you and your family. It does it two ways. One is in terms of the details of what you can and cannot buy. I have 63-year-olds who have to buy maternity coverage.

But the final point I would make in that regard is that it takes away your ability to do what is your free and correct right to not buy health care if you do not want it. What is freedom about? You have to buy health care? We say: It does not really do it. It just charges you a tax, right? Even though we said it was not a tax, we somehow got it twisted around, and the Supreme Court says this is now a tax. I have not figured that one out yet. I hope the Senator has.

What does that have to do with freedom? If I choose to not buy a product—what if I choose not to buy high-definition cable? Is there a penalty for that? In other words, does Washington really know better? I think we have seen in the last 10 years, in my experience in the Senate, we are really the last ones to know, and the common sense of the American people is far greater than most of the ideas that were ever thought about coming out of here, other than some of the original founding documents that our Founders had.

So I would make one other comment on Medicaid. There is a recent study out of Oregon, which has done a good job of expanding its Medicaid. But when they went to look at what the difference was of expanded Medicaid, what they found out was that you were still, in Oregon, better off if you did not have Medicaid. You were better off if you had no insurance at all than if you had Medicaid. That is because we downward select through Medicaid, because of its pricing, to not the best of the health care system.

So when they looked at the control of diabetes, when they looked at high blood pressure, when they looked at the control of heart disease and congestive heart failure—when they looked at all those things—they found one thing that was better: the treatment of anxiety.

That was it. So in Oregon, when they actually looked at the study—and part of that is because, even though you say you got Medicaid, if you do not have a great doctor-patient relationship, where someone can get in your face who loves you and cares for you and cares about your health, and says: You have to do these things to change, you are going to change. So there is no impact.

So running it from Washington versus having real markets with a real safety net like the Patient Choice Act, which had a real safety net so that people are auto-enrolled who are irresponsible against catastrophic illnesses, is not a much better answer.

The other thing that is going to happen—I predict in April—is that you are going to see another uproar in this

country. That is when the seniors in this country pay their taxes and they find out that the little meager interest income they got off their savings because of what the Federal Reserve is doing, or the few dividends they got, 3.5 percent of that is going to now come to “pay for ObamaCare,” because that is called investment income—3.5 percent.

So whatever your tax rate is, if you have any earnings on an investment, you are going to be paying that. You know, I will never forget Christmas Eve morning 2009—not having an opportunity to go over the Patient’s Choice Act or have it voted on through the raw, brute political force of this body and ignoring the rights of the minority. We voted on the bill that many of us predicted—I am not worried about the exchanges. They will get that fixed. That is just the incompetency of management. They will get it fixed. It will eventually work and work well.

What will not work is the rest of it. It will not work. Just look at centralized management everywhere else in the Federal Government. It is inefficient, most of the time ineffective, oftentimes complicated by fraud or incompetence. We are going to do that to one-sixth of our economy. We are doing to it one-sixth of our economy.

The other thing that is going to happen in April of this year is people who have a health insurance policy through their employment, not buying through an exchange, are going to see their personal contributions through their employer rise significantly. That is because the insurance industry is going to have to pay for all of this. They are going to have adverse selection in what is being signed up on the exchanges.

The insurance companies that sell to the medium-size businesses and the smaller businesses who are not in a risk plan, they are going to be raising the costs for small businesses. So what is probably going to happen is that those small businesses are either going to markedly increase their employees’ share or they are going to drop insurance all together and pay the fine—pay the tax or pay the fee, whatever it is. Pay the penalty. But the individuals, the people who we said we were helping, then will not be with the insurance that they had. They will be back to an exchange with a price, even with subsidies that are greater, 1. No. 2, with a copay that is greater—2. And, No. 3, with a massive deductible which is at 6,000 or 7,000 bucks, and all you really have is catastrophic coverage. Why did we not just do that? Why did we not just write catastrophic coverage for everyone in the country and let the market work on the rest of it?

That does not allow the elites in our society to make decisions for you. That is what we have done.

Let me share another story. This is from Tina Wilkerson. Tina called in. She has been a school cafeteria worker for a long time. For the last 14 years she has worked 40 hours a week for 10 months out of the year. She works for a food contractor company.

She has now been changed to a seasonal employee because of ObamaCare, so that her employer can avoid the ObamaCare mandates. It was costing her about \$400 a month for a health care premium, which included medical, dental, vision, plus life insurance, plus a short-term disability policy. She went to the Web site, looked at plans. With her subsidy, she pays \$645 a month premium, with a \$12,000 deductible, does not have vision care, does not have dental care, does not have life insurance coverage, and does not have disability coverage.

That is middle income in Oklahoma. Here is someone who, because of what we have done, is now far worse off—far more exposed in her attempt to do good. I will give my colleagues credit. Their ambitions, their goals are worthy; they were worthy. But the results are a disaster and will become much worse of a disaster.

I want to spend a little bit of time talking about the fact of what is really going to happen in the medical world. I have four former partners. I go by there sometimes on Friday and visit. You cannot believe the morale in the medical community today—unbelievably negative. You talk about worried. Think about the average physician. They have an undergraduate degree. They spend 4 years in medical school. They then spend 3 or 4 years in specialty training. So they have 12 years at a minimum of higher education.

They come out all excited about actually doing good, real good, making a difference in individual people’s lives—whether it is holding a hand when somebody is going through a rough time or diagnosing a very serious disease. The payment for being a physician is the relationship with a patient. It does not have anything to do with money. It has to do with helping your fellow man. I want to tell you, that is totally upside down right now. If you do not think that makes a difference when you have a doctor walk into a clinic setting, and you are sitting there on an exam table, and that doctor is focused on: How am I going to pay the overhead? How am I going to buy the next piece of equipment that I need to care for you the way I need to care? How am I going to buy insurance for my own employees? How am I going to pay for the necessary bills?

Oh, by the way, I have got the Independent Payment Advisory Board coming that is going to tell me what I can and cannot do as a physician, regardless of how I am trained, regardless of what I know, regardless of how much gray hair, regardless of how much experience I have in terms of really caring for folks, I am going to have a group of unelected, appointed bureaucrats decide what I can and cannot do for you.

Then on top of that, we have ICD-10. Most people do not know that. That is a diagnostic code manual that has just been expanded from some 10,000 diagnoses to over 66,000 with Federal pen-

alties if you do not explicitly get it down to the detail. It is not enough that you broke a metacarpal in your hand, you now have to label which hand, which finger, and describe in subsets the fracture. Your nurse cannot do that for you. You have got to do it. So now we are taking more time, and the penalties are going to be severe if you do not do it right.

As a matter of fact, they will not pay you for Medicare or Medicaid if you have not done that. There is no significant benefit to the health care community, but certainly a mandated bureaucratic cost on every physician practicing in this country that will offer no long-term benefit to the individual patient.

So now you have a doctor walking in. He may have been up all night the night before delivering a baby, carrying this added burden of all of this bureaucratic mess that the affordable/unaffordable care act placed on physicians in this country. Think that has any impact on diagnostic skills, on compassion, on empathy? Think it will impact care? It certainly will. It is going to have a devastating impact.

I want my physician focused on me. I do not want him worried about the Federal Government. I do not want him worried about IPAB. I do not want him worried about ICD-10. I do not want him worried about whether or not they have met the requirements of electronic medical records. I want him worried about me. I want him concentrating on me.

So we have put this big distraction out there because we know better than the market, than the trained professionals, and the arrogant assumption that we know better than the average American about what they need because we have already told them what they must buy. We have told them, if you do not buy what you must buy, here is the penalty. Thank goodness the young people of this country have figured that out.

Which brings us back to the integrity of the statements of the President. What did he say? We have seen all sorts of rationalization evidence: If you like your insurance now you have got, you can keep it. Is that right? Right now, for 5.8 million, and soon to be 15 million Americans that is not true. They knew it was not true when they said it. But it sounded good.

Second deceitful thing: If you like your doctor, you can keep your doctor, period. Oh, really? Can I if I did not have individual separate means to keep Chris Logothetis? No, no. You cannot keep your doctor. You can have a new doctor, based on what your insurance company—based on what the pricing mechanism has. You can have one of those doctors. But if your doctor is not on that list, you cannot keep him.

So somebody may have delivered all of your babies, taken care of your parents, delivered your baby’s babies, cared for your husband’s heart attack, knows everything about your family,

knows your psychosocial profile, knows your emotional needs, someone who has really been your ally in life—that is gone for millions and millions and millions of Americans.

But oh, no: You like your doctor, you can keep your doctor. Every one of my colleagues voted against MIKE ENZI's bill to allow you to keep your insurance under the grandfather clause. Every one. MIKE ENZI knew what was going to happen. He put a bill on the floor. All of my colleagues said: No, we do not want you to be able to keep your insurance. It does not work that way. What about the deceit of this? Is it significant? Sure it is. It is a matter of trust.

Third thing. The promise of President Obama, who said, on average, that your health insurance costs will go down \$2,500 a year. I do not know who told him that, whether it was Dr. Emanuel or who. I do not know what whiz-bang accountant or financial forecaster told him that. But it is just the opposite of that. Probably the average American is going to spend about \$2,500 more trying to get equivalent care to what they had, not keeping their same insurance and not keeping their doctor.

Then, finally, the deceit that is assumed but not spoken, is that your doctor is going to make decisions for you and with you about your health care.

When the independent advisory board gets going, it will be not only about Medicare, it will be about everybody. If a group of unelected bureaucrats thinks I shouldn't run a non-stress test on a pregnant woman whom I am watching closely and they say I can't do that, I won't be able to do that.

We are going to be having a group of people practicing medicine in this country who don't know the patient, don't know the situation, don't have their hands on the patient, haven't ever touched the patient, making decisions about what kind of care that patient will get.

When we try to unwind the unaffordable care act, we have a routine chorus of noes. So the consequence is, who is going to be held accountable?

A total disruption of the indemnification market in this country is now occurring in terms of health care insurance. When the insurance companies look at what their ratios are in terms of young to old, in terms of higher risk patients who cost more versus younger patients who cost less, they will make a calculation this spring about what their fees will be for next year.

The ObamaCare administration did something else deceitful—intentionally deceitful. Before the election next fall, they don't want you to know how much the health care costs are going to rise, and so they changed the date on which you will make a selection for next year and on which those prices will go through until after the November elections next year because they know that if you know the significant increase in costs that are going to come next

year—not just this year but next year—based on the adverse selection and the mix of all of the insurance companies in this country—they know that the rise in your insurance health cost is going to be significant. So what did they do? They passed a little rule, and they changed the day to make the knowledge available to you, the purchaser, come after the election. So you won't be a fully informed voter knowing that your insurance costs are going to rise 20 or 25 percent again next year under the unaffordable care act—the unaffordable care act.

We are in a mess in a lot of ways. We are going to continue to see significant disruptions in the health care in this country. We are going to see a continuous decline in the quality of health care in this country—just the opposite of what they promised—because we are disrupting the doctor-patient relationship. I know this, having practiced for 25 years. I know what it takes to really care for someone. I know what it means to be in a room and spend the time that it takes to listen, to find out what is really going on, to find out why the patient is really there. We are going to drive down all of that.

We have this payment system in Medicare which pays on the basis of procedure—which is a dumb system—instead of paying on the basis of time that is spent with a patient. What most people don't recognize is that all reimbursements in this country for physicians—unless a doctor is in concierge medicine, which is another thing I will talk about in a minute—force doctors to spend less time with their patients because as we crank down reimbursements, either through Medicaid or through the insurance or through Medicare, and a doctor has fixed overhead which has been markedly expanded under the mandates associated with the Affordable Care Act, less time means less quality care. Less time means less quality care.

There was an interesting study done recently about how long—after your doctor comes into the room and asks “why are you here today?” how long before you are interrupted because the doctor is in a hurry to get to the next patient. It is 6½ seconds.

So our reimbursement mechanism, mandated by the Federal Government—another positive aspect of us meddling in the markets—is decreasing the time, the quality, and the quantity of health care that patients rightly deserve when they are sitting in your office.

What is the market doing about this? There is this growing expanse of what are called concierge doctors where, for a certain fee, that doctor is yours no matter how many times per year you want to go to him or them. No matter what your needs are, they are available to you 24 hours a day, 7 days a week, 365 days a year. How does it work? Well, most people can't afford concierge medicine. It is about \$1,000 a year that you pay. Insurance doesn't

reimburse you for it. You pay \$1,000, and they are available. You get a comprehensive, thorough health care screening exam once a year. All of your tests are included in that as far as blood tests and laboratory tests at a physician's office. Then if you have a need at any time during that year, you have access to that physician.

What do we find? The first studies that have come out on that, where we take the time pressure off the doctors and let them actually practice medicine the way they were trained, show that they order 40 percent fewer tests. Isn't that interesting?

The axiom in medicine that every doctor is trained with is if you will listen to your patients, they will tell you what is wrong with them, whether it is cancer or diabetes or heart disease or anxiety or depression or hypertension. But it takes time, it takes interaction, and it takes a great differential diagnosis. The unaffordable care act is destroying that. This is why you are seeing this little blurb out in the market where you see concierge medicine because now the reason they are ordering fewer tests is they spend about five times as long with a patient because they are not in a hurry to get to the next patient because they are not making their money by filling out a code and filing it with an insurance company. There is a complete relationship between the physician and their patient.

I would like to return to this gentleman named Brian who is from Oklahoma. He and his wife have two children under 5 years of age. They believed what the President said when he told them they would keep their health insurance plan and their doctors if they liked them. Brian recently called my office and said: That isn't true. That was a lie to me. It was deceitful. It was untrue.

Brian works in Tulsa, and the company he works for, he felt the insurance cost was too much, so he didn't take insurance from his employer, and he went on the private market and bought, through Community Care in Tulsa, a plan he and his wife could afford. His wife decided to quit working, stay home, and raise their two kids. He was paying a \$330 premium, but it didn't cover maternity care, and they didn't want any more children, so he underwent a vasectomy, which is an elective procedure, to make sure he wouldn't have more children.

On November 1, Brian received a letter in the mail stating that as of November 1 of this next year he would be terminated from his current plan and he would have to find a plan that satisfied the new mandates that the wisdom of Washington said had to be in there—maternity care. He spent hours on the ACA Web site, and what he found were plans that ranged in costs from \$800 to \$1,100 per month—four times what he was paying. He can't afford that. He didn't qualify for a subsidy, but he can't afford that.

So now what does he do? He had plan for \$330 a month that met his needs and covered what he and his wife thought they needed covered. He is a young man. What is going to happen to Brian? Brian is going to get taxed, not because he doesn't want to buy health care, not because he can't afford the \$330 or even \$400 or \$500 a month, but because he can't afford \$800 or \$1,100 a month. So now Brian is going to be without health care—I am going to say it again: without health care—and then we are going to fine him, we are going to tax him because we designed a system that took him out of the market. It didn't put him in the market; it took him out of the market.

What have we done? We had an opportunity to fix that with the Enzi amendment, to grandfather all of these plans in, and all of my colleagues on the other side of the aisle said no.

So here is Brian with a wife at home and two small children under 5, and he is stuck in no man's land. Do you think he thinks President Obama is truthful? No. Does he think those who touted the Affordable Care Act are truthful? No. He has lost confidence in his government.

That is really where we are in our country today. We are in a crisis of confidence with Washington. It was never meant to be. If you read the enumerated powers—as a matter of fact, we have an Enumerated Powers Act. It has 36 cosponsors. It says simply that if you bring a bill to the floor, you have to state what section of the Constitution gives you authority to legislate in that area based on what article I, section 8 of the Constitution has to say. Disappointingly, there is not one of my colleagues on the other side of the aisle who is a cosponsor of that bill. It doesn't stop you from offering the bill, it just says please reference where in the Constitution you have the authority to legislate in this way. None of our colleagues believe the Constitution has any bearing on what we do by the fact they will not even cosponsor that bill.

The very thing our Founders emphasized was our authority to make or change law. That is fundamental, structural to this country. As we have ignored—as does the affordable-unaffordable care act—the enumerated powers, the consequences to our country are monstrous.

This book contains, through the middle of November, all the emails my office has gotten on the Affordable Care Act from a State of just 4 million people. We are just 4 million people. There is not much positive in here. As a matter of fact, there is not one positive story in here. They are all stories similar to Brian's and Tina's—identical. Had care; don't have care now. Had an affordable plan; don't have an affordable plan now. Had a doctor; don't have that doctor now.

As a matter of fact, one of the stories in here is from somebody who had their doctor for 35 years and can't have that doctor anymore. It is not because the

doctor doesn't want the patient, and it is not because the patient doesn't want the doctor. It is because the unaffordable care act has decided that will not work in our system anymore.

We have heard through the press that we didn't have any ideas on health care. My colleagues know that isn't true. Senator BAUCUS stood right over there on December 8, when we tried to bring up the Patients' Choice Act. That did everything in terms of the goals which the Affordable Care Act did, without raising taxes, without disrupting the indemnification market in this country, creating a true safety net for those who could not afford health care, and created auto-enrollment for the irresponsible. We were never allowed to vote on that.

It was very similar to what we are seeing now with the Defense authorization bill. We have to pass one, but you can't have your say. My 4 million people don't count when it comes to the Defense authorization bill because they do not like the amendments I might offer.

Under the Constitution, it is illegal for the Pentagon not to give a report of how it is spending its money. It is a violation of the Constitution. We have an Audit the Pentagon Act. It has real teeth in it. There is somewhere between \$50 billion and \$100 billion worth of waste a year in the Pentagon. We will never manage the Pentagon if we can't measure what they are doing. Yet we don't get an opportunity to offer that. It is a smart good government amendment. But it is not in there, and it is not ever going to get offered. Why? Because the majority leader in this body has decided he will decide what amendments are offered and what amendments will not be.

This is no longer the greatest deliberative body. This is a mimic of the House of Representatives—the exact opposite of what our Founders intended the Senate to be. Their genius was they created a House of Representatives to be responsive to the populace demands of our country. That is why elections are every 2 years for the House of Representatives.

When the Senate was first formed, it was an appointed body by the State legislature and it was for a 6-year term. Jefferson wrote the rules—the first rules under which the Senate would operate—and the Senate was designed to make sure there could never be a tyranny of the majority, as we see today; that the minority rights of those in opposition would never be limited. For the first 130 years, it took absolute unanimous consent to do anything in this body. The rules were always changed—when the rules changes were made—with a two-thirds vote of those duly sworn and present, until November of this year.

Are things raw in the Senate right now? You bet. And they are going to stay that way because the very genius behind our Founders was to force consensus and compromise in the Senate,

something the majority leader doesn't believe in. We saw the raw, brute political power with the unaffordable care act. Not a single Republican voted for that bill. It was forced through with a 60-vote margin in December 2009 on Christmas Eve morning.

Now we see more raw, brute political force, not because it had to be that way but because leadership is lacking, an understanding of the traditions and history of the Senate. CARL LEVIN explained why he didn't agree with that. We didn't listen to one of the senior Members who has been here a long time, who understands the history of the Senate, and so consequently we find ourselves in a situation where consensus is not derived, the mechanism to force consensus has been diminished, long-term thought goes out the window, and bipartisanship will as well.

I wish to spend another minute or two talking about the Defense Authorization Act and the waste in the Pentagon. A little over 1 year ago I put out a report on the Pentagon. In the Pentagon's budget is \$67 billion a year which the Pentagon spends on items that have nothing to do with defending this country. I put out that report in the hopes the Senate Armed Services Committee would look at that report and say: We ought to take all this out of the Defense Department.

Do my colleagues realize the Defense Department has 112 science, technology, engineering, and math programs—110 separate programs. That doesn't have anything to do with defending the country. They have 138 green energy programs, spending billions of dollars every year on them. That should be at the Department of Energy, not in the Pentagon. It costs \$50,000 a year to educate a child on a military base in this country—four and a half times what it costs to educate anybody anywhere else in this country. That doesn't have anything to do with defending the country either. Why?

So we have \$67 billion that not one aspect of was acted on in the Defense Authorization bill. That was not taken out. Let's have the military defend this country and not do all these other things that don't have anything to do with defending the country.

Oh, by the way, if we moved that \$67 billion out, it is estimated we could save about \$15 billion in overhead absorption by moving medical research to the NIH, where it belongs, instead of the billions of dollars we send to the Pentagon for medical research that doesn't have anything to do with extraneous diseases that our combat forces might encounter in odd places around the world.

So \$67 billion, and we could have saved \$15 billion. That \$15 billion is three-quarters of what the new "agreement" between the House and the Senate on the budget for the next 2 years is. We could have saved that. That is \$15 billion that would have paid for training; \$15 billion that would have bought more ships; \$15 billion that

would have worked on missile defense, now that we are going to need it since Iran is going to eventually be armed with a missile-based nuclear weapon. But we didn't do it.

We have the Government Accountability Office that in the last 3 years has identified duplication throughout the Federal Government coming close to the tune of \$250 billion. One committee in the House has actually acted on their report. Of that \$250 billion, perhaps \$50 billion or \$40 billion could be saved by eliminating some duplication. Yet not one committee in the Senate acted on the recommendations of the Government Accountability Office to eliminate duplication—not one. Not one bill came to the floor.

We have tried to insert a lot of it, but we can't offer amendments anymore. We don't have the opportunity—the 4 million people in Oklahoma—to have a say on what happens. They see what is not happening, and they wonder why we don't fix these things.

Let me create a scenario for a minute. What do my colleagues think would happen in the country if we actually did the things the Government Accountability Office recommends we do? What would the people think if we eliminated the duplication, if we eliminated the fraud, if we eliminated the waste? The confidence of the American people in this Congress would rise because we are actually addressing the problems. We are actually addressing the key components that put us in deficit every year.

It is true—my colleagues all tell me—the biggest problem is our entitlements. That is true. But it doesn't mean we don't worry about the smaller problems. As a matter of fact, I am reminded—as I see the Presiding Officer in the Chair—that I owe Senator KING some information on some programs I forgot to give him that he asked me for in November. But if in fact we did all those things, if our committees were charged, through the leadership of this body, to eliminate the duplication, consolidate the programs, and save the money because we need the money right now, we need to not be charging it to our children, what would happen to the confidence in this country? It would rise. We would actually be doing what the people expect us to do. Nobody in the real world gets to do what we do—ignore the real problems, don't act on the real problems and say: It is too hard. It is too difficult.

I yearn for bipartisanship, for consensus. I yearn for a system that forces us into consensus—not all my way, not all somebody else's way but somewhere in the middle. That requires using the rules of the Senate and a long-term vision of where our country needs to be going and not caring about what a political career looks like but caring about what our country looks like.

We have lost focus on what is important. It is not my career, it is not the career of the distinguished Senator from Iowa, it is what happens to our

country. We have our eye on the wrong ball. I do too. I admit it. We degenerate to the easiest thing to be critical about.

I am human. I admit to that as well. It doesn't have to be that way.

Mr. President, I see that the majority leader and several others are on the floor. I yield the floor in anticipation of our vote.

Mr. HARKIN. Mr. President, I rise in enthusiastic support of the nomination of Chai Feldblum to serve a second term at the Equal Employment Opportunity Commission. Commissioner Feldblum has served with distinction at the Commission since 2010. She is a respected professor of law, and one of America's premier experts on employment discrimination and civil rights laws.

I have had the pleasure of working personally with Commissioner Feldblum first on the passage of the Americans with Disabilities Act in 1990, and more recently in 2008 on the passage of the Americans with Disabilities Amendments Act. She was a tremendous help to me in both of those efforts.

Chai Feldblum has a fierce intellect and a passionate commitment to ensuring equal opportunity for all. Perhaps the most important quality in a Commissioner at this critical agency, Commissioner Feldblum has the ability to listen to all sides and to make careful decisions about the allocation of the scarce resources that Congress provides to the EEOC. That ability to listen carefully, to search for compromise, and to forge consensus are skills that I have observed during our work together, and that I know she brings those skills to the EEOC.

She has built close working relationships over the course of her career with both worker advocates and the business community. This explains why her nomination has broad bipartisan support here in the Senate and in the employment community as a whole.

I have here letters of support from the Society of Human Resource Managers, the U.S. Business Leadership Network, and a letter signed by leading attorneys in the labor and employment bar. The signatories on that letter include five former GOP Commissioners and officers of the EEOC and the Department of Labor. Speaking of Ms. Feldblum, these attorneys say, and I quote, "Commissioner Feldblum has been one of the leading lights in the employment law field. She is a tireless contributor to the employment law bar and to educating stakeholders on employment law issues."

I ask unanimous consent that these letters be made part of the RECORD.

I would also like to note the critical role the EEOC plays in ensuring that people with disabilities are protected from employment discrimination, and in interpreting and enforcing the employment provisions of the Americans with Disabilities Act, ADA. My committee last year issued a report, Unfin-

ished Business: Making Employment of People with Disabilities a National Priority, that focused attention on the fact that employment rates for people with disabilities remain far below the employment rates for any other group. The report noted that people with disabilities participate in the workforce at less than one-third the rate of the general population, and that workers with disabilities dropped out of the labor force at a much higher rate during our recent recession. Given these harsh realities, it is critical to have a Commissioner at the EEOC who understands disability law and is committed to enforcing the employment rights of people with disabilities. Given the role that Commissioner Feldblum played not only in passing the ADA and the ADA Amendments Act, but in the implementation of those laws, it is invaluable to have someone with her expertise at the EEOC.

I am not alone in that view. I have a letter here signed by 38 separate disability organizations in support of her re-nomination. I ask unanimous consent that this letter be included in the RECORD.

Commissioner Feldblum's confirmation will ensure that the EEOC has a full complement of members, and that the agency is able to move forward with the critical work of ensuring equality in the workplace. While much progress has been made in recent decades, discrimination in the workplace persists. Today, too many employment decisions are based on insidious stereotypes and prejudices rather than an employee's talent, ability and qualifications. Too many hardworking Americans face hiring discrimination, harassment, unfair treatment or even termination, not because of lack of skills or poor performance but because of their age, race, sex, disability or some other irrelevant factor.

Commissioner Feldblum brings to the EEOC a determination to work on a bipartisan basis to craft practical solutions, and to work to make America's workplaces more fair and free from discrimination.

The EEOC's mission is simple: to promote equality of opportunity in the workplace and enforce Federal laws prohibiting employment discrimination. Unfortunately, the agency must fulfill this broad mission without sufficient resources. The EEOC is constantly being asked to do more with less. Just in the past year, as the result of sequestration and across-the-board cuts, the EEOC has seen its budget drop from \$360 million to \$343 million. Meanwhile, the EEOC continues to handle an increasing number of complaints—almost 100,000 each in 2011 and 2012!

At least in part thanks to strong management and setting clear priorities, in 2011 the agency managed to reduce its backlog for the first time in almost 10 years. Together with Chairman Berrien and the other members of the Commission, Commissioner

Feldblum has played an important role in developing a strategic plan that allows the EEOC to create a system that rewards effective investigations and conciliations, and does not incentivize the closure of charges simply to achieve closures.

I urge my colleagues to support the re-confirmation of this excellent, highly qualified nominee. I look forward to her confirmation and to her continued service on the Equal Employment Opportunity Commission.

The PRESIDING OFFICER (Mr. KING). All time has expired. The question is on the Feldblum nomination.

Mr. COBURN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Chai Rachel Feldblum, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission?

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Alabama (Mr. SHELBY) and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Alabama (Mr. SHELBY) would have voted "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 258 Ex.]

YEAS—54

Baldwin	Gillibrand	Murphy
Baucus	Hagan	Murray
Begich	Harkin	Nelson
Bennet	Heinrich	Pryor
Blumenthal	Heitkamp	Reed
Booker	Hirono	Reid
Boxer	Johnson (SD)	Sanders
Brown	Kaine	Schatz
Cantwell	King	Schumer
Cardin	Klobuchar	Shaheen
Carper	Landrieu	Stabenow
Casey	Leahy	Tester
Collins	Levin	Udall (CO)
Coons	Markey	Udall (NM)
Donnelly	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Murkowski	Wyden

NAYS—41

Alexander	Enzi	McConnell
Ayotte	Fischer	Moran
Barrasso	Flake	Paul
Blunt	Graham	Portman
Boozman	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Heller	Rubio
Coats	Hoeven	Scott
Coburn	Inhofe	Sessions
Cochran	Isakson	Thune
Corker	Johanns	Toomey
Cornyn	Johnson (WI)	Vitter
Crapo	Lee	Wicker
Cruz	McCain	

NOT VOTING—5

Kirk	Mikulski	Shelby
Manchin	Rockefeller	

The nomination was confirmed.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Elizabeth A. Wolford, of New York, to be United States District Judge for the Western District of New York.

Harry Reid, Sherrod Brown, Richard J. Durbin, Christopher Murphy, Robert Menendez, Christopher A. Coons, Angus S. King, Jr., Martin Heinrich, Amy Klobuchar, Dianne Feinstein, Tom Udall, Kirsten E. Gillibrand, Bernard Sanders, Barbara Boxer, Brian Schatz, Robert P. Casey, Jr., Thomas R. Carper, Benjamin L. Cardin, Michael F. Bennet.

QUORUM CALL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now asks the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 6]

Alexander	Franken	Moran
Baldwin	Gillibrand	Murkowski
Barrasso	Hagan	Murphy
Baucus	Harkin	Murray
Bennet	Hatch	Nelson
Blumenthal	Heinrich	Paul
Blunt	Heitkamp	Portman
Booker	Heller	Pryor
Boxer	Hirono	Reed
Brown	Hoeven	Reid
Cantwell	Inhofe	Sanders
Cardin	Isakson	Schatz
Carper	Johanns	Schumer
Casey	Johnson (SD)	Scott
Coburn	Johnson (WI)	Sessions
Cochran	King	Shaheen
Collins	Klobuchar	Stabenow
Corker	Landrieu	Udall (NM)
Cruz	Leahy	Vitter
Donnelly	Lee	Warner
Durbin	Markey	Warren
Enzi	McCain	Whitehouse
Feinstein	McConnell	Wyden
Fischer	Menendez	
Flake	Merkley	

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Elizabeth A. Wolford, of New York, to be United States District Judge for the Western District of New York, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Alabama (Mr. SHELBY).

Further, if present and voting, the Senator from Alabama (Mr. SHELBY) would have voted "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 55, nays 41, as follows:

[Rollcall Vote No. 259 Ex.]

YEAS—55

Baldwin	Harkin	Murray
Begich	Heinrich	Nelson
Bennet	Heitkamp	Pryor
Blumenthal	Hirono	Reed
Booker	Johnson (SD)	Reid
Boxer	Kaine	Sanders
Brown	King	Schatz
Cantwell	Klobuchar	Schumer
Cardin	Landrieu	Shaheen
Carper	Leahy	Stabenow
Casey	Levin	Tester
Collins	Manchin	Udall (CO)
Coons	Markey	Udall (NM)
Donnelly	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden
Gillibrand	Murkowski	
Hagan	Murphy	

NAYS—41

Alexander	Enzi	McConnell
Ayotte	Fischer	Moran
Barrasso	Flake	Paul
Blunt	Graham	Portman
Boozman	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Heller	Rubio
Coats	Hoeven	Scott
Coburn	Inhofe	Sessions
Cochran	Isakson	Thune
Corker	Johanns	Toomey
Cornyn	Johnson (WI)	Vitter
Crapo	Lee	Wicker
Cruz	McCain	

NOT VOTING—4

Baucus	Rockefeller
Kirk	Shelby

The PRESIDING OFFICER (Mrs. HAGAN). On this vote the yeas are 55, the nays 41. The motion is agreed to.

VOTE EXPLANATION

Mr. BAUCUS. Mr. President, I thought I had voted on the last vote but apparently it was not registered. Had it been registered, I would have voted aye.

I thank the Chair.

NOMINATION OF ELIZABETH A. WOLFORD TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW YORK

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 2 hours of postcloture consideration of the nomination, equally divided in the usual form.

The majority leader.

Mr. REID. On behalf of the majority, I yield back 57 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire.

MCCAFFERTY NOMINATION

Mrs. SHAHEEN. Madam President, I appreciate the 3 minutes to be on the floor in support of the nomination of