

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

#### HEALTH CARE

Mr. JOHANNIS. Mr. President, last Friday we heard that the health care law is scheduled to deliver yet another blow to Americans. The administration released a proposal that would significantly cut Medicare Advantage.

Medicare Advantage is a very well-received program. It offers private plan options for seniors on Medicare. Nearly 30 percent of Medicare beneficiaries voluntarily choose to enroll in Medicare Advantage because it offers extra benefits, it offers lower costs, more flexibility, and better care coordination than the traditional Medicare program.

This program, Medicare Advantage, has been very well received in the State of Nebraska. About 35,000 Nebraskans are enrolled in Medicare Advantage.

An analysis notes that further cuts to Medicare Advantage would “disproportionately affect beneficiaries with low incomes, including the 41 percent of enrollees with incomes below \$20,000.”

This announcement is absolutely no surprise; the health care law has siphoned over \$700 billion from Medicare—not to strengthen the program but to pay for ObamaCare; \$308 billion of those cuts come from Medicare Advantage, again disproportionately affecting beneficiaries with low incomes, including 41 percent who are trying to live on incomes below \$20,000.

The reality is these cuts will likely mean fewer benefits and higher out-of-pocket costs for seniors who can't afford that. Plans could drop out of the market all together or seniors could find out that their trusted doctor will no longer be covered by their plan. We have already started to see the consequences.

Since the passage of ObamaCare, the number of Medicare Advantage plans available to seniors has not been strengthened. In fact, they have been reduced from 48 in 2009 to now 20.

In rural areas, seniors have fewer choices. The plans available have dropped from 36 to 13, according to a Kaiser analysis.

Another study estimates about 526,000 of current 2013 Medicare Advantage enrollees will have to make some changes because their plan is not available in 2014.

How do these consequences match up with the President's promises? Well, they don't. The President spoke about Medicare, and he said: “Don't worry; I am not going to touch it”—or his promise: If you like your plan, you can keep it, which an independent fact checker has called the lie of the year.

The Medicare Advantage issues unraveling today are symbolic of the broader problems with the law. The math doesn't add up, and the promises aren't kept. Nearly every week it

seems the authors and supporters of this law are trying to bury their past. They are trying to create hollow promises. They are trying to get around misleading statements and hide behind a new position, at least until the November elections are over.

It is remarkable that they are perfectly willing to evade the key pillars of this law. The law's employer mandate has been ignored and delayed. Mandated plan benefits aren't required for another year, and deadlines are conveniently rescheduled—to when? Until after the election.

This time around 19 Democratic Senators have joined a number of Republicans in writing the Medicare administrator saying the administration's Medicare Advantage cuts “create disruption and confusion” and “inhibit plans from driving the innovation that has resulted in better care and improved outcomes for Medicare beneficiaries.”

What is so contradictory is that these same individuals voted against amendments offered by Senator HATCH, twice, during the health care law debate that would have struck ObamaCare's Medicare Advantage cuts. They twice voted against that.

Understanding the consequences of these Medicare Advantage cuts before the law was passed would seem like the responsible course of action. But rejecting these amendments, voting for a bill that cuts over \$300 billion for Medicare Advantage, then backpedaling when the politics get tough, and when the cuts become real to everyday folks, apparently, they were for the cuts before they were against the cuts.

It is even more frustrating when you consider that recent efforts to dodge these cuts are only part of the story. For the past few years, the Obama administration has been pumping money back into Medicare Advantage under the guise of a so-called demonstration program that the Government Accountability Office says they probably don't even have the authority to run. GAO asserted that HHS should terminate the demonstration program, but the administration flat-out ignored that.

The real purpose of the \$8 billion program was to effectively mask the health care law's significant cuts to Medicare Advantage until when? After the November election. It is just another example of the administration's hiding their poor decisions and then rewriting the law as they see fit. But as this new Medicare notice clearly shows, this phony demonstration project is about to run out and our senior citizens are truly caught.

Our taxpayers deserve a government that is held accountable for its actions. Americans are tired of temporary fixes and lip service. They are rightfully demanding the truth. It is time for my friends across the aisle to own up to the devastating consequences of this law and acknowledge it is time to repeal it.

During the debate, Republicans also supported an amendment to ensure Medicare savings were invested back into Medicare, not used to back ObamaCare. Remarkably, nearly everyone on the Democratic side of the aisle rejected that idea. Republicans are still committed to that principle, and we stand ready to work on ensuring the Medicare Program is accessible, that it is flexible, and that it is cost-efficient for seniors today and for our grandchildren in the decades to come.

Taking money out of Medicare to finance ObamaCare was wrong and it needs to stop. That is a promise worth delivering on.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. THUNE. Mr. President, I come to the floor today to discuss the pain ObamaCare continues to inflict on Americans. It seems like every week brings more ObamaCare bad news for somebody—families, businesses, middle-income Americans, lower income Americans. This past week the bad news was for seniors.

On Friday the Obama administration announced its planned 2015 cuts to Medicare Advantage—cuts that were dictated by ObamaCare and will result in higher prices and fewer choices for millions of American seniors. More than 15 million seniors—close to 30 percent of all Medicare recipients—are enrolled in Medicare Advantage plans. The Wall Street Journal reports that approximately one out of every two new Medicare enrollees chooses Medicare Advantage.

Medicare Advantage offers seniors a chance to pick a plan that is right for them instead of a one-size-fits-all approach. Advantage plans also frequently offer important health supplements, such as dental, vision, hearing, and wellness benefits, as well as smaller copays or deductibles. Studies also show that Medicare Advantage Program enrollees receive better care and experience better health outcomes than seniors enrolled in traditional fee-for-service Medicare.

Despite the benefits these plans offer to seniors, Democrats and the President supported Medicare Advantage cuts in the President's health care law. In 2010, the President and Democrats paid—or I should say tried to pay—for ObamaCare by, among other things, cutting more than \$700 billion from Medicare—already, I might add, on its way to bankruptcy—to pay for yet a new entitlement for nonseniors. More than \$300 billion of those cuts were targeted specifically at the Medicare Advantage Program.

Those cuts are kicking in this year, hitting Medicare Advantage beneficiaries with cost increases and benefit cuts of up to \$70 per month—no small amount for a senior on a fixed income. Friday's announcement of further steep cuts for 2015 could mean up to an additional \$75 per month in increased cost next year.

But that is not all. Cost hikes are bad enough, but this year's cuts and the 2015 cuts announced Friday will result in a host of other problems for seniors who participate in Medicare Advantage. First and foremost, some seniors will lose their plans entirely as a result of ObamaCare's cuts, breaking the President's promise that if you like your plan you can keep it.

The Kaiser Family Foundation estimates that more than one-half million seniors will lose their current plans in 2014. If the 2015 cuts go into effect, even more seniors will lose their plans next year. Seniors will also have fewer plan choices as a result of ObamaCare's raiding Medicare Advantage to pay for a new health care entitlement program. If next year's cuts go into effect, we can expect to see even more reductions.

These higher costs and reductions in available Medicare Advantage plans will disproportionately impact low-income seniors in rural areas, areas such as those I represent in South Dakota. Forty-one percent of those seniors in Medicare Advantage plans have annual incomes of less than \$20,000 and are least able to bear the higher costs forced on them by ObamaCare. Yet it is precisely those seniors who are bearing the greatest burden when it comes to paying for ObamaCare.

On top of that, reports indicate that plans are responding to the cuts by reducing their footprint in rural markets, giving these seniors fewer options when it comes to choosing a health care plan.

Finally, similar to so many other Americans suffering under ObamaCare, seniors on a Medicare Advantage plan may no longer be able to keep the doctors they have and like thanks to these cuts. Between Medicare cuts and the new ObamaCare tax insurance companies are facing this year, companies are scrambling for ways to be able to afford to continue their plans. Frequently their only option is to narrow their networks of doctors and hospitals or raise their copayments and deductibles, thus reducing seniors' choices and increasing their health care costs.

Republicans have long touted the quality care and patient choice offered by Medicare Advantage plans. When the health care bill was being considered in 2010, we warned at the time that Medicare cuts being proposed in the bill would hurt seniors, damage Medicare Advantage, and weaken a program already hastening toward bankruptcy. Despite this, Democrats not only supported the health care bill, they also voted twice against measures

to repeal the law's cuts to Medicare Advantage.

Now it seems many Democrats have changed their minds. Earlier this month, 19 Democratic Senators, most of whom voted for ObamaCare in 2010, joined a number of Republicans in sending a letter to Marilyn Tavenner, Administrator of the Centers for Medicare & Medicaid Services, urging her not to cut Medicare Advantage. Let's hope it is not too little too late.

Democrats' support for the Medicare Advantage letter to the CMS Administrator reflects their increasing unease with their support for ObamaCare. Once they planned to tout ObamaCare to voters as a legislative triumph, but Democrats up for reelection now can't run away from the law fast enough.

In fact, the President has repeatedly delayed parts of the health care law to give Democrats political cover. Each delay is a tacit admission that, yes, this law will hurt jobs and the economy because, after all, if this law is not going to hurt jobs and the economy, why do we have to continually delay it? The latest number is somewhere in the twenties. I have heard 24, 27, and 28 different delays of the harmful effects and impacts of ObamaCare.

If the health care law is the panacea the American people were promised, Democrats and the President would be working to implement the law faster, not slow it down.

The only possible reason to delay the law is because its implementation is going to hurt. It is a little awkward when your signature legislation has to be repeatedly delayed to give the folks who voted for it a better chance of keeping their jobs.

Unfortunately, the President doesn't seem to have learned his lesson. Not content with the damage his health care law is doing to an already struggling economy—a recent CBO report warned that the health care law may result in up to 2.5 million fewer full-time workers—he continues to push policies that will further weaken an already sluggish economy, such as a minimum wage bill that CBO reports would result in up to 1 million fewer jobs.

At a time when our labor force participation rate is at Jimmy Carter-era lows, a law that would further reduce the number of full-time workers is one of the worst possible things we could do for our economy. People working produces economic growth. The fewer people working, the less likely we are to produce the kind of growth we need to pull our economy out of the slump it has been in throughout the President's administration. What we need right now are policies that will create jobs and encourage businesses to expand and invest in our economy and in our workers.

If the President were really serious about reversing the economic stagnation of the past 5 years, he wouldn't be pushing his health care bill or a minimum wage hike. Instead, he would be calling the Senate majority leader and

urging him to take up and pass trade promotion authority, which will create thousands of jobs for American workers. He would sign off on the Keystone Pipeline and the 42,000-plus jobs it would support. He would join bipartisan majorities in both Houses of Congress to support a repeal of the job-destroying medical device tax in his health care law, a tax that has already cost more than 33,000 jobs.

American families and workers are hurting. They have been hit hard by ObamaCare and the Obama economy. It is time for the President to give them some help.

I would argue there are bipartisan issues out there. The trade promotion authority, repealing the medical device tax, and the Keystone Pipeline have broad bipartisan majorities here in the Senate. We had a vote a year ago on the budget on repealing the medical device tax, and 79 Senators, including 30 Democrats, voted for that. The last time we had a vote here on the Keystone Pipeline, 62 voted in support of it, again representing broad bipartisan support for that initiative. We know the trade promotion authority is something that enjoys support from both Republicans and Democrats. All of these initiatives enjoy broad bipartisan support and are known job creators. Those are the types of things we ought to be focused on, not things that, according to the Congressional Budget Office, are going to cost more jobs.

Implementation of ObamaCare, according to the CBO report a couple weeks ago, will reduce the number of workers in this country by 2.5 million over the next decade. It also said it would reduce overall wages by about 1 percent. So that is fewer jobs and lower take-home pay.

Last week we had the report come out from the Congressional Budget Office that raising the minimum wage could cost up to 1 million jobs at the same time it is raising prices. So the very people we are trying to help are going to have fewer jobs and higher costs. How does that solve the problems our economy faces? How does that get people in this country back to work? How does that grow and expand our economy in a way that creates greater opportunity for middle-class families?

There are things we can do on which there is broad bipartisan support that are known job creators, that are known to expand and grow our economy. I would add to that list as well reforming our Tax Code. We have lost so much in terms of economic growth in the past few years since the recession and coming out of that recession because we have had subpar growth. We haven't seen the type of growth rates we normally see and experience coming out of a recession during a recovery. As a consequence, we have much larger deficits because when the economy is growing at a sluggish, anemic, slow rate, it means there are fewer people working, fewer people investing, fewer

people making money, and therefore fewer people paying taxes. We need the opposite. We need a growing, expanding, vibrant, dynamic economy fueled by policies in Washington, DC, that make it less expensive and less difficult to create jobs rather than more expensive and more difficult, which is what we see coming out of the Obama administration and the Democratic majority here in the Senate.

We can do better. We must do better for the American people, for middle-class families who have been hit hard by the effects and the impacts of this economy with fewer jobs, lower take-home pay, higher premiums, higher deductibles, and fewer choices of doctors and hospitals under ObamaCare. These policies are hurting the American people. We need to put policies in place that will help the American people by growing our economy and creating more jobs for middle-class Americans.

I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### EXECUTIVE SESSION

#### NOMINATION OF JAMES MAXWELL MOODY, JR., TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ARKANSAS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of James Maxwell Moody, Jr., of Arkansas, to be United States District Judge for the Eastern District of Arkansas.

The PRESIDING OFFICER. Under the previous order, the time until 11:15 a.m. will be equally divided and controlled in the usual form.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### JUDGE WILLIAM K. SESSIONS III

Mr. LEAHY. Mr. President, for almost two decades Judge William Sessions has served as a Federal judge for the District of Vermont. Last month Judge Sessions announced he would take senior status later this year. I have worked with Senator SANDERS, Representative WELCH, and the Vermont Bar Association to convene a

merit commission to find highly qualified candidates to serve on the Vermont District Court so I can then recommend them to the President.

I know I speak on behalf of all Vermonters, no matter what their background, when I thank Judge Sessions for his years of distinguished public service and applaud him for agreeing to continue his judicial service even after he takes senior status this summer. Because of his continued dedication, Vermont will have one of the most highly respected and extraordinarily capable jurists on the Federal bench. I am proud to call Judge Sessions my friend, and I am honored to have cast my vote to confirm his nomination 18 years ago.

I ask unanimous consent to have printed in the RECORD at the completion of my remarks a Rutland Herald article written by Brent Curtis that recounts his many accomplishments.

There are only two authorized district judgeships in Vermont. We are the second smallest State in the Union. So, when President Clinton asked for my recommendation to fill a vacancy in my native State, I did not take this task lightly. I knew the people of Vermont deserved a judge with integrity, intelligence, and fairness, somebody whom anybody could go before—plaintiff or defendant, rich or poor, no matter their political background—and know they would have a fair hearing.

During my time in private practice as a litigant and then as State's attorney in Vermont, I experienced firsthand the tradition of legal excellence we have in Vermont. I know many Vermont lawyers who are among the best this country has to offer, and Bill Sessions earned a reputation as one of the finest trial lawyers in the State. He was widely respected by prosecutors and defense lawyers, and by the plaintiff and defense bars alike. He was praised by those who had been his co-counsel, by State and Federal judges and prosecutors, and even by those who had been his opposing counsel in court. It was a privilege to submit his name to the White House for nomination to the U.S. District Court. At the time, I told President Clinton this would be one nomination he would never have to question his judgment in making because he would have somebody who would always serve the country so well. The Senate confirmed him unanimously on August 11, 1995.

Judge Sessions received his B.A. from Middlebury College in 1969. Upon his graduation with honors from the George Washington University Law School in 1972, Judge Sessions served his country in the U.S. Army from 1972 to 1977 and in active service from 1972 to 1973. He also served as a law clerk to another friend of mine, Judge Hilton Dier of the Addison County District Court. Before his service on the Federal bench, Judge Sessions contributed to his community as an adjunct professor at Vermont Law School; in private practice; as the executive director

of the Addison County Youth Services Bureau; and as a public defender in Addison County, VT.

During his years of service on the Federal bench, Judge Sessions has worked tirelessly to ensure that all those who come before him are treated fairly and with dignity. He is a judge who has taken seriously his commitment to both justice and the American people. He served for many years as a member of the Judicial Conference, composed of the leaders of the Federal judiciary.

Judge Sessions also served for a decade on the U.S. Sentencing Commission, eventually serving as its Chairman. Three Presidents, both Democratic and Republican, nominated him to this Commission, and the Senate confirmed him unanimously each time. As a commissioner, Judge Sessions made deeply significant contributions to American sentencing policy. He played an important role in the reduction of the sentencing disparity for crack and powder cocaine offenses. He has done vital work to improve the Federal Sentencing Guidelines. This was especially important following a number of Supreme Court cases that gave judges more discretion in the sentences they impose. Even after his time on the Sentencing Commission, Judge Sessions continued to work for better sentencing policy, publishing an article in a journal of the University of Virginia School of Law that explained how the three branches of government could work together to improve sentencing in America.

Judge Sessions has not forgotten what it is to be a Vermonter. He still finds time on weekends to be at farmers markets around Vermont. He is a familiar face at the booth for Blue Ledge Farm, a small Vermont dairy started by his daughter, Hannah, and son-in-law, Greg. I think of a picture of him holding a grandchild in one hand and making change for one of the customers with the other.

He is one of our country's most respected jurists. He is a lawyer's lawyer and a judge's judge. Marcelle and I think of him and Abi, his wife, as dear personal friends.

Our justice system has benefited a great deal from Judge Sessions' years of service. I thank Judge Sessions for all he has done as a Federal judge. I thank him for continuing to serve as a model jurist.

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

[From the Rutland Herald, Feb. 16, 2014]  
SESSIONS REFLECTS ON YEARS ON AND OFF  
THE BENCH  
(By Brent Curtis)

U.S. District Judge William K. Sessions III will shift to senior status.

Long before he was making decisions in a courtroom, federal Judge William Sessions III was working to keep people out of them.

With only months remaining before he shifts to senior status in June, Sessions, who turned 67 this month, can look back over two