

I agree with Senator SCHUMER that JASTA is a good example of the kind of good work we can do together to solve problems facing our Nation. This bill passed out of the Senate Judiciary Committee without opposition because of the careful work we were able to do to ensure the bill accomplished its goals while addressing concerns about unintended consequences.

So I appreciate our work together and look forward to continuing both for the duration of the 113th Congress and the 114th Congress.

Mr. SCHUMER. I thank Senator CORNYN for his good work.

I yield the floor.

Mr. SCHATZ. 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. SCHATZ. I ask unanimous consent that the order for the quorum call be rescinded.

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

PROTECTING VOLUNTEER FIRE-FIGHTERS AND EMERGENCY RESPONDERS ACT OF 2014—Continued

DODD-FRANK

Mr. SCHATZ. The House is now considering the funding bill for fiscal year 2015, and the risks of not passing it are extremely high. But tucked into this must-pass bill is yet another attempt by Republicans in the House of Representatives to gut Dodd-Frank. What is really scary about this is that this is just the beginning. We can expect much more of this in the 114th Congress.

Dodd-Frank was designed to reduce the systemic risks that large banks posed to our financial system. It was meant to prevent another taxpayer bailout of these massive institutions that were and continue to be too big to fail. By chipping away at Dodd-Frank we are once again letting special interests prevail over the safety of the financial system and protection for consumers.

There were many roots of the financial crisis, but economists agree that the unregulated and pervasive trading of derivatives was a major contributing factor. We permitted financial institutions to gamble and regulators looked the other way. When these financial institutions made bad bets and nearly took down the financial system, we had to bail them out on the taxpayers' dime. Working families who are struggling in a slow economic recovery are still paying the price.

So one of the goals of Dodd-Frank was to get the banks to go back to doing the normal business of banks—to collect deposits and extend credit. That means no longer allowing banks to leverage FDIC-insured deposits and their access to the Federal Reserve for speculative trade. In part, Dodd-Frank ac-

complished this through the swap push-out rule. The swap push-out rule, which is section 716 of Dodd-Frank, makes federally insured institutions move their swap trades into a separate uninsured entity that does not have access to the Federal Reserve discount window or other Fed assistance. These trades are incredibly complex and risky, and there is no public policy justification for the government to effectively subsidize them.

Before we even passed section 716, the biggest financial institutions were able to water it down. They wanted exemptions for swaps for "hedging purposes" which could be interpreted to mean a wide range of activity. But that was not enough. Now they want to do away with section 716 by making the exemptions so broad that the rule becomes meaningless.

Let's be very clear. This change primarily benefits the five biggest financial firms in the country. They account for well over 90 percent of swap transactions. These activities net them over \$4 billion in profits. Before the crisis, swaps brought in over \$7 billion. One of these firms actually wrote the language in the House bill. These financial institutions and their lobbyists know what they are doing, and they are doing just fine. They know that when something as important as funding of the government is on the line, they can convince Republicans to slip their priorities into a must-pass bill at the last hour. But again, this is just the beginning. Make no mistake about it. This portends much worse things when it comes to the Republicans taking over the majority in the Senate and the 114th Congress.

This is a big problem because we have been down this path before. We know where it leads. We let risk build in our financial system before, and the fallout was disastrous for our economy and the well-being of working families. It is on us to hold back against special interests. We have a responsibility to protect the public from this attempt to roll back Dodd-Frank. We cannot take our eye off the ball. We have to continue to guard against systemic risks in our financial system, and we have to put a stop to the practice of holding the government hostage over the pet issues of special interest groups.

The House is in a recess subject to the call of the Chair, and they are trying to round up votes for the omnibus spending bill which contains this provision. But they have another option. They can strip this provision. If they find that they don't have sufficient votes, they don't have to pass a 3-month continuing resolution. They can simply remove this provision from the omnibus bill which was negotiated in good faith with both parties in both chambers. Remove this provision, and I have no doubt we will have a resounding bipartisan supermajority in both Chambers. We should remove section 716, and pass the omnibus properly.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BOOKER. I really appreciate the words of Senator SCHATZ, which are spot-on. People are so frustrated right now with Congress, and it does not take a Ph.D. in political science to figure out why common Americans of all backgrounds are frustrated with Congress. It is because people are frustrated with business as usual here in the Senate and the House. In this case, as Senator SCHATZ points to, here we are at the end of the 113th Congress facing a \$1 trillion spending bill—a bill with funding that is critical to our national defense. It is critical to the health and well-being of Americans. It is critical to the strength of our community.

I know the sincerity and passion with which Senate and House negotiators have been working to get this done. They have been focusing on making sure the American public has those critical services that we need. I give tribute to many of the leadership in this body for working on it. Senate leaders should get credit, also—BARBARA MIKULSKI for holding the line on so many critical priorities, for putting in this trillion dollar spending plan some very important items that should arouse the gratitude of many people. They also stood up against, fought, and prevented from getting into this some very extreme proposals. But to the many people watching this unfold in New Jersey, in Hawaii, and across this country, what they are also seeing, unfortunately, is a bill passed with policies pushed by very connected special interests—special interests with armies of high paid lobbyists looking out for their own protection. There are special interests with armies of high-paid lobbyists looking out for their own protections and looking to roll back common-sense protections for people who cannot hire those high-priced lobbyists or make donations to political candidates and elected officials.

This omnibus—this CRomnibus, as it is called—is a jagged, bitter pill for anyone to swallow.

I will start with the provision that Senator SCHATZ mentioned, the provision that is rolling back aspects of Dodd-Frank. Risky transactions involving asset-backed derivatives were at the heart of a 2008 fiscal crisis. Economists at the Federal Reserve Bank of Dallas estimated that the financial crisis cost the United States between \$6 and \$14 trillion. This amounts to \$50,000 to \$120,000 for every U.S. household or the equivalent of 40 to 90 percent of 1 year's economic output. It was cataclysmic.

I don't need economists to describe the pain that Americans felt. I saw it myself. I felt it as a mayor of a big city in America—Newark, NJ—New Jersey's largest city. When the Nation goes through a recession, rural and urban areas, vulnerable populations, people living at the margins go through a cataclysmic depression. Many Americans,

even today, remain unemployed or underemployed and are still struggling to make ends meet because of the risky behaviors we saw within the financial industry.

Now, Dodd-Frank—this Wall Street protection act—was passed to enhance consumer protection and increase safeguards against risky activities so we, as a country, do not go through this again. Dodd-Frank is not perfect. I am the first to admit there are ways to change it and improve it and implement its provisions, frankly, that still have yet to be fully implemented.

Changes to financial regulations should be done through a much more transparent process and in the public eye. We should openly debate these issues on the floor of the House and the Senate. It should not be done like this was, behind closed doors and definitely through what they call a must-pass omnibus bill. This is wrong.

Here we are in the last moments on an omnibus spending bill with a provision which goes to the heart of protecting American taxpayers from the risky, reckless schemes that helped to launch the crisis in the first place.

This provision is literally called the Prohibition Against the Federal Government Bailouts of Swap Entities, which ensures taxpayer dollars will not be used for the more risky Wall Street speculation and gambling. It looks to make sure that Americans are on the hook for the risky gambling of a few people seeking to make extraordinary gains.

I am outraged. I am frustrated that we are not on the floor debating this, and, instead, are having this put into a bill that everyone says must pass.

There are arguments on both sides that we should be having. If the provisions of Dodd-Frank come up, we should discuss them. The public should see it and know about it.

I will not condemn the entire financial services industry, and, indeed, we need in this country a robust network of financial institutions that support the vibrant economic activity in the United States. However, we must ensure that the necessary and important protections that shield taxpayers and our economy from the failures of 2008 remain in place.

I rebuke the slick and secretive ways that this has been done, and I will echo the concerns of people all over New Jersey that this kind of business as usual must end.

But there are other concerns that should be out in the public eye. Take, for example, truck safety. There is this “hours of service” language which protects America’s highways, but now the language that protects us has been changed and altered in this bill. It was inserted through the appropriations process. This language suspends the administration’s rules designed to prevent driver fatigue.

I will read from the rule that is now being suspended under the omnibus. It states:

Only drivers who drive nights and work more than 60 or 70 hours in a week will be impacted. . . . Drivers who will be impacted by this provision work heavy and irregular schedules that include some nighttime driving. . . . The limitation reduces maximum time during which a driver may drive up to an average of 70 hours in 7 days, a decrease from the 82-hour average allowed under the 2003 rule. . . . Working long daily and weekly hours on a continuing basis is associated with chronic fatigue, a high risk of crashes, and a number of serious chronic health conditions.

These right here are commonsense rules put in place to protect Americans who are driving to and from work with their families or to church to protect them against these heavy, irregular vehicles barreling down the highway that might now have an overfatigued driver.

These regulations were put in place to try to limit those drivers from straining human endurance, but now they are being suspended within this omnibus bill.

These rules are based on years of sound scientific study, and I am outraged that despite the efforts of my colleagues and the safety community, the provisions to suspend these safety rules were included in this omnibus bill.

Each year nearly 4,000 Americans are killed in truck accidents, and over 100,000 Americans are injured on our highways in truck accidents. These drivers who drive trucks are hard-working men and women, and they have, unfortunately, been pushed to tread on the limits of human endurance.

The number of fatalities caused by truck accidents has risen 16 percent since 2009, and the number of people injured in these crashes has increased 40 percent. At a time when accidents are on such a savage rise, we are in no position to be crippling existing safety measures designed to keep our roads safe. For the sake of our Nation’s security and the untold anguish and loss that comes from these highway accidents, this provision should be taken out of the bill.

There is more in this omnibus, and I feel compelled to mention another objectionable thing. The very idea of taxation without representation and self-determination is at the core of our democratic ideals as a nation. Yet, despite this, Washington, DC, with a population larger than two of our States, sees the constant undermining of this very principle. I believe it is an offense to Americans of all States, to Americans in the District of Columbia, and to all those who believe in our cherished ideals that this is done so.

When the District of Columbia votes, just as in Colorado, Washington, Oregon, and Alaska, to change marijuana laws—when Washington, DC, is grappling with the devastating impact of the drug war and sees the pain and the challenges and the struggles involved therein, when the people of the District come together and decide to try a dif-

ferent way forward—should we not honor their results? Should we not respect their self-determination as is going on in other States? This provision in this omnibus, undermining the democratic will of the District of Columbia—these great Americans—should be taken out.

My list of concerns in this bill could go on. I could continue. We should be having a discussion and debate on issues of this magnitude.

Take, for example, the rules on pensions that will slash benefits for thousands of retirees. Make no mistake. We need to address the state of multi-employer pension plans, and we need to discuss the tough choices that have to be made, but this is not the way to do it—not business as usual with no discussion and no debate.

This bill also includes provisions that roll back protections for wildlife and endangered species. This is not how we should do this—business as usual with no discussion and no debate it.

There are provisions that keep the USDA from addressing an array of fraudulent, deceptive, anticompetitive, and retaliatory practices which will now undermine important protections for farmers against unfair practices. This is not the way to do it—business as usual, no discussion, no debate.

When people wonder how Washington does things in such a manner that is skewed in favor of the connected, skewed in favor of high-priced lobbyists, and skewed in favor of special interests, when they see how the common good and common sense gets undermined, this is how it happens. This is how it happens.

I have been in this body for a little over 12 months, and the way we are doing this is offensive. The American people deserve better. We should do better.

I object to so much being put in this that deserves to be on this floor, discussed and debated in the light of the public. This is no way to run the globe’s greatest democracy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

TRIBUTE TO KELLY MCKELLOGG SWAINE

Mr. CARDIN. Madam President, I ask that my colleagues join me in thanking my State Department foreign policy fellow, Kelly McKellogg Swain, for her exemplary service to the Senate and to wish her well as she returns to the State Department as her fellowship in my office comes to an end.

I think the Presiding Officer would agree with me that, the fellows program we have here in the Senate is so valuable. We get people who are real experts in their areas from the State Department who serve in our office and can advise us and work with us and give us the expertise we need in order to make the right policy.

I think it also helps the State Department because they will have an individual on their staff who will have a better working understanding as to

how the Senate operates so that the Senate and the State Department can work closer together on the foreign policy considerations of our country. That has certainly been my experience during this past year with Kelly.

Kelly has been an incredibly valuable member of my staff, advising us on so many important issues that we have to deal with, and she has really stepped in to be a valuable member of my staff.

The uncertain working hours has placed a strain on her family, and I thank her very much for being willing to entertain these long hours.

I wish to take this opportunity to thank her husband Brian and son Finley for sharing her with the Senate.

Kelly has been a key member of my foreign policy and national security team over the last year. Before she joined my office, she was the Deputy Director in the Office of Public Affairs in the Bureau of East Asian and Pacific Affairs at the U.S. Department of State.

She brought her expertise in matters pertaining to East Asia and the Pacific, and her expertise and counsel has been critical to me. Over the last 2 years, I have chaired the East Asian and Pacific Affairs Subcommittee of the Senate Foreign Relations Committee.

This has been a particularly busy year, as President Obama has moved forward on his policy to rebalance Asia, recognizing that Asia is critically important to the United States for our security interests, our economic interests, and our environmental interests. Kelly has been an extremely important part of our team, working on the East Asian and Pacific Affairs Subcommittee in carrying out that responsibility during this past year.

Kelly's hard work enabled us to hold five subcommittee hearings ranging from "Economic Engagement in the Asia Pacific" to "Combating Force Labor and Modern Day Slavery in East Asia and the Pacific." In addition to developing and executing my subcommittee agenda, she ensured that I was up-to-date on the latest regional developments and more than adequately prepared for office visits with foreign officials on my trips to the region. So she gave me the expertise I needed.

During this past year, we have had significant challenges in East Asia. We have had maritime security issues involving China and Vietnam. We have had the current crisis in Hong Kong. We have had North Korea and the problems it has created. We have had the relationship between two of our close allies that have been strained—Japan and the Republic of Korea. In each of these instances, Kelly gave me the type of help I needed so the Senate was properly exercising its functions on foreign policy.

Kelly's outstanding work does not stop there. When my permanent foreign policy adviser went on maternity leave this summer, Kelly stepped into

that role. Within the first few weeks of her expanded role, Malaysian Air flight 17 was shot down in Ukraine, Israel and Hamas went to war, and militants for the Islamic State in Iraq and ISIL terrorist groups were expanding their siege over Iraq and Syria. All that happened when my staff person went on maternity leave, and Kelly stepped right in and took on the responsibilities and helped our office meet our responsibilities. This summer was a particularly busy and challenging time around the world, and not surprisingly Kelly rose to the occasion.

This fall I had a chance to get to know Kelly even better when I went to the United Nations General Assembly in my capacity as the United Nations delegate. I represented the Senate along with Senator JOHNSON at the 69th session of the United Nations General Assembly. Kelly not only accompanied me for the trip and prepared me for all of my high-level meetings, but she also became a trusted adviser. As I told my colleagues just a little while ago, as I walked through the halls of the United Nations, my ego was a little bit affected because more people knew Kelly than knew me, but that was all right. She was incredibly important to me in carrying out my responsibilities in the U.S. delegation to the United Nations. While Kelly came to the Senate with a background in East Asia and Pacific matters, she has demonstrated to me and to the Senate, too, that her foreign policy extends far beyond that region.

My staff and I will miss Kelly's calm demeanor, sense of humor, and extraordinary work ethic. She has been a tremendous asset not just to my office but to the Foreign Relations Committee and the entire Senate. I urge my colleagues to join me in thanking Kelly for her long service to our Nation. We are fortunate to have such people devote their life to public service. It has been incredibly helpful to us in the Senate and I know she is going to go back to the State Department and continue to serve her country. I thank her.

I yield the floor and 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. HATCH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

NOMINATION OF CAROLYN COLVIN

Mr. HATCH. Madam President, I wish to take a few minutes to speak about the nomination of Carolyn Colvin to be the Commissioner of the Social Security Administration.

In recent weeks a number of disturbing facts have come to light about Ms. Colvin and her tenure as the Acting Social Security Commissioner. These revelations, coupled with the fact that there is an ongoing investigation of the conduct of people in her immediate office, raise serious questions

about whether she is qualified to serve in this position.

Let me make one thing clear. My doubts about Ms. Colvin's nomination have nothing to do with partisanship. I, along with 20 of my colleagues on the Senate Finance Committee, voted to report her nomination out of the committee in September. At that time I believed she had the necessary qualifications for the job and saw no reason to oppose her nomination. I have to say I liked her personally, but as I said, since that time, new facts have come to light that are extremely disconcerting.

Just days before Ms. Colvin appeared before the Finance Committee, we became aware of allegations concerning potential waste and mismanagement at the SSA, as well as allegations regarding the possible coverup of that waste and mismanagement. Several sources, including the House Ways and Means Subcommittee on Social Security and the House Oversight and Government Reform Committee, and individual whistleblowers reported that SSA had, over a 6-year period, burned through \$300 million in a failed attempt to develop and implement the Disability Case Processing System or DCPS.

These sources derived their information from a report issued in June by a private contractor commissioned by SSA. This report was subsequently provided to Congress by SSA whistleblowers.

According to the report, mismanagement and poor planning at the SSA stalled the development of the DCPS. This, in turn, resulted in the substantial waste of taxpayer dollars.

Once again, the amount was, I am informed, roughly \$300 million. These allegations were just breaking when Ms. Colvin appeared before the Finance Committee, but I did mention them during the hearing.

Needless to say, as we have learned more details about the failure surrounding the DCPS, the picture has only gotten even cloudier. At a minimum, these allegations call into question the quality of SSA's overall management and the leadership skills of those managing the agency. It certainly calls into question their commitment to preventing waste and preserving SSA's already scarce resources.

Sadly, it gets worse. On July 23, 2014, the House Committee on Oversight and Government Reform sent a letter to Ms. Colvin that raised even more issues about the failures of SSA, partially under Ms. Colvin's leadership as Acting Commissioner, including possible actions by agency officials designed to intentionally mislead Congress and the IG's office about the deficiencies and the development of the DCPS. Indeed, the allegation is that Congress may have been intentionally misled so as to facilitate approval of Ms. Colvin's nomination to be the next Social Security Administration Commissioner.

Subsequently, on November 18, 2014, a press release from the House Ways

and Means Subcommittee on Social Security indicated that the “results of a criminal investigation regarding the implementation of DCPS is still pending.”

In addition, whistleblowers have informed the Senate Finance Committee that the ongoing IG investigation has centered on high-level officials at the SSA, including members of Ms. Colvin’s immediate office, and that alleged criminal conduct may extend to irregularities in the award of contracts for the DCPS project. This is a serious problem. I do not know how the Senate can with good conscience vote to confirm anyone with this type of ongoing investigation going on around their immediate office. It may very well turn out that Ms. Colvin did nothing wrong, but we need to know for sure.

This is a very important position. That is why I, along with all of the Republican members of the Senate Finance Committee, sent a letter to Ms. Colvin last week asking for more details about the DCPS and her office’s conduct. She has since responded claiming that she is not responsible for any mismanagement of the DCPS project and that she committed no criminal conduct. As I said, that may very well be the case. I hope it is. But the specter of an ongoing investigation still hangs over her nomination; therefore, I do not believe the Senate should proceed toward confirming her until this matter is resolved. I want to be fair to her, but this is an important problem that needs to be resolved.

I want to make one thing clear: This is about more than just mismanagement of funds or bureaucratic incompetence; this is about an ongoing investigation of people in Ms. Colvin’s direct office for contract issues and allegations that they purposefully misled Congress in order to move her nomination through.

Once again, this is not partisan. I supported Ms. Colvin’s nomination in committee and continue to believe she has the right credentials and experience for this important job. Of course, if these allegations prove to be true, my assessment of her qualifications will most certainly change.

Put simply, with this investigation—which may very well have a criminal element to it—still ongoing, I cannot support moving forward on Carolyn Colvin’s nomination. I hope this matter can be resolved quickly and cleanly, but until such time, I plan to vote against confirming her as the next Social Security Commissioner unless we resolve these matters beforehand.

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

The PRESIDING OFFICER (Mr. WARNER). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RURAL HEALTH CARE

Mr. MORAN. Mr. President, I have visited hospitals many times in our State. In fact, there are 128 community hospitals in Kansas, and I have visited each and every one of them once and, in many instances, two or three times. In fact, last weekend while I was home in Kansas, I visited my hometown hospital, Mercy, in Manhattan, KS.

It is a very useful exercise. I would encourage my colleagues to spend time with health care providers. In the case of hospitals, it gives you the opportunity to visit with hospital administrators, the CEOs, the opportunity to visit with the nurses, patients, with physicians, and get a feel for what is going on in the delivery of health care in your State. I certainly know how valuable that is to me.

One of the interests I have in serving in Congress is a belief that the way we live our lives at home in Kansas is something very special, and it is something that is worth trying to make certain is around for many years to come—in fact, for generations to come.

One of my early conclusions, in looking at public policy and looking at the future of the communities of Kansas and the people who live there, is the access to health care, to affordable health care, is critical. It is a component in which many communities will not continue to exist if there is not access to hospital care, a physician, a hometown pharmacy—all the things that make up the opportunity for someone to be cared for in every aspect of their lives related to their health. I know this from my own circumstance, my hometown of Plainville with a population of about 2,000.

My parents called Plainville home into their nineties. My parents are no longer living, but I know well before the time in which they passed, my sister and I would have had a conversation with my parents talking about: Mom, Dad, I am sorry, but you need to move, and you need to move where you can have adequate health care. You need to move where there is a good hospital and a set of physicians who will care for you.

But because that exists in my hometown and continues to exist in my hometown, those kinds of conversations are not necessary. Wherever the place that you are telling your parents they have to move to access health care—wherever that place is—and it may be a very desirable place, but it is not home. My parents would have lived someplace in which they had not lived all of their lives, would not have been surrounded by the people they know and who knew them—particularly as they lived, my dad, until the age of 98. They would not have had the people who checked in on them, made sure they were doing OK each and every day, gave them the opportunity to continue to live at home, the people who would have given them a hug and a pat, and the pharmacist who said to my dad: Ray, you probably need to have

your blood pressure taken. Those are very special things about many places many of us come from.

In the absence of those kinds of opportunities for health care, our communities—certainly across my State and across the country—especially in rural America begin to disappear, the point being that in the absence of access to health care, the ability to keep a community together to encourage senior citizens to remain at home in their hometowns and for us to be able to recruit and encourage young families to move to our communities is not going to happen, is not going to be available, unless we have access to health care.

In the discussions I have with those health care providers, the doctors, the nurses, the CEOs, the administrators of the hospital—including the patients—they continued to remind me that what is going on in our Nation’s Capitol, in Congress, and certainly in the administration, are barriers, are burdens to the chances of that hospital and those health care providers continuing to be in business.

Every visit involves the raising of concerns to me. Often it is: What you are doing about this, Senator MORAN? What are you doing to reduce the Federal regulatory burden that our hospital faces? Are you working to make certain we are able to provide the health care our local residents need?

Last month I introduced legislation that was bipartisan, a resolution that unanimously passed the Senate. It recognized the importance of access to hospitals and other health care providers, particularly in rural areas of our country. It indicated how special they were and how important they were to the success and survival of the communities in our country.

The point I would make about that resolution is it passed unanimously. While the importance of rural providers is overwhelmingly acknowledged, as evidenced by the unanimous passage of that resolution, the Affordable Care Act and unnecessarily burdensome Federal regulations fail to demonstrate that we follow through on that understanding of the importance of hometown health care.

Among the regulatory concerns I hear about in those hospital visits, serious flaws with what is called RAC, the Medicare Recovery Audit Contractor Program, is it is causing many problems for hospitals and providers across Kansas.

Our hospitals and health care providers have been required to divert significant resources away from caring for patients, their mission to appeal incorrect audit decisions that are almost always ultimately overturned through an appeals process. This broken RAC Program places a tremendous burden on the providers, and it has created a 2-year appeal in backlogs within the Department of Health and Human Services. This program diverts the resources hospitals are devoting to caring for patients, to going through the

process of trying to get their money back. That is certainly a problem and increasing the expense of providing health care. But the other aspect of that is often the hospital's money is tied up for 2 years, held by CMS, the Centers for Medicare and Medicaid Services, while it is adjudicated. Again, the overwhelming number of cases is decided ultimately in favor of the hospital, but it is certainly diverting resources and increasing costs.

I met with Secretary Burwell at Health and Human Services to discuss what is an urgent need to improve the Medicare RAC Program. I have requested from HHS a timeline and objectives, measurable objectives, to address the RAC problems and the appeals backlog that is in existence now.

Another concern in addition to the RAC audits is the Federal Government's inflexible supervision rules. CMS passed a rule that was delayed but now ultimately put in place. It requires that many pretty routine services that occur in a hospital—that includes things such as a drug infusion or blood infusions, cardiac and pulmonary rehabilitation—that they require supervision. That is just not an option in many rural hospital health care settings. There is a lack of understanding and a lack of common sense as to what a small hospital in a small town faces when CMS puts this regulation in place. They make it difficult for those hospitals to continue to provide those necessary services.

Fortunately, we have had some success in addressing this issue. Congress passed legislation that prevents the Federal Government from enforcing that regulation through the near future. I have introduced original legislation to make that change, that regulatory prohibition, permanent. I will reintroduce that legislation in January in the new Congress as we try to capitalize upon the temporary success we have had in fighting back this regulation from CMS to make it permanent so that when the temporary prohibition expires that we will have the opportunity to keep them from reintroducing that provision.

I will say that hospital administrators and employees, when I have a conversation with them, the discussion typically involves serious and strong opposition to a number of proposals that come from the Obama administration each year.

One of those is to change the number of miles that you must be apart from another hospital in order to qualify to be a critical access hospital. It is a program under Medicare and Medicaid Services that allows for a reimbursement that is more based upon cost than otherwise would be the case.

Also the administration has continued to propose a 1-percent reduction in the funding for those critical access hospitals.

Those are pretty much life-and-blood issues for community hospitals across Kansas and around the country. That

critical access hospital designation in receiving that cost-based reimbursement means that a hospital with few patients, one that doesn't have hundreds of patients each day, can still be reimbursed at a rate in which they can almost make ends meet, that they can cover their costs but still rarely is there any profit or extra revenue generated from that so-called cost-based reimbursement.

Cutting reimbursements to the hospitals, removing them from the critical access program, I have little doubt but that it would eliminate many, if not most, of those hospitals currently in that critical access hospital program. There would be no place else for them to go, no other category within Medicare that would allow them to survive. I believe the number now is 88 of Kansas's 128 hospitals are those critical access hospitals.

The other topics of conversation that arise in those conversations in visiting with health care providers at a hospital—the physician, the nurses, the physical therapists, the CEO of the hospital, the trustees, the board of directors of the hospital—is the Affordable Care Act.

Again, we symbolically say we care a lot about rural health care providers, but the reality is the Affordable Care Act is creating significant problems, challenges, for the survival of hospitals, particularly the smallest hospitals in my State and across the country.

The Kansas Hospital Association projects that the Affordable Care Act will cost Kansas health care providers approximately \$1.3 billion in Medicare funding over the next 10 years. These Affordable Care Act cuts include reductions to hospitals' Medicare reimbursements and a payment called disproportionate share that the hospital receives in order to cover the high level of uninsured patients.

These cuts are taking place on top of what Congress and the President agreed to under sequestration—a 2-percent across-the-board cut—that many, if not all, of our providers are now receiving. So what was supposed to be cost-based reimbursement, which nearly never covered the cost, is being reduced by another 2 percent as a result of sequestration. Again, this is something this Congress—and if not this Congress, the new Congress that begins in January—needs to deal with, the issue of sequestration.

For this and for other reasons sequestration is a significant problem. While I certainly support the reduced spending aspects—what the goal was of sequestration—the idea that we would do across-the-board cuts is irresponsible. We ought to be establishing the priorities—the things Congress, on behalf of the American people, thinks are the most important and beneficial to the American people, the things that are allowed for under our Constitution. Those are the things we ought to be funding, as compared to taking a step

back and just having automatic cuts because we don't have the ability to decide in a responsible way what we can afford and what we cannot afford.

Further, I would say the Affordable Care Act forced States to adopt—the original act as passed by Congress—an expansion of Medicaid. The U.S. Supreme Court, in its 2012 ruling, indicated that Medicaid expansion was optional, not mandatory under the Constitution. So that portion of the Affordable Care Act was determined to be unconstitutional.

States are now faced with the difficult decision that involves Medicaid and long-term costs associated with potential expansions, and hospitals face tremendous uncertainty about how they will care for an increased number of patients while they are already absorbing the Affordable Care Act's Medicare cuts. So States are struggling to figure out what to do about expansion of Medicaid.

Hospitals are suffering from the consequence of not having additional Medicaid dollars. That is on top of the cuts that occur as a result of changes in Medicare. Really, in most hospitals across my State, two components are so important: Medicaid and Medicare cover a significant portion of the number of patients that are admitted to a hospital, and in many instances there are not many private pay patients who have their own health insurance to add additional revenue to the hospital's revenue stream.

This scenario of Medicare and Medicaid both creating problems, being squeezed from both programs, presents significant problems for rural hospitals. Again, those reimbursements—Medicare and Medicaid—make up about 60 percent of those hospitals' revenues.

The Affordable Care Act also put hospitals in the difficult position of having to balance increasing regulatory burden with reduced revenues. So in addition to the Medicare-Medicaid pressure, there is also the problem of increasing costs associated with more and more regulations emanating from the Department of Health and Human Services and other places across the Federal Government at the same time the reimbursement rates are declining. So increased cost, reduced revenue—again, a significant problem.

In 2011, the average Medicare margin for hospitals in Kansas was a negative—not enough to cover the cost—4.9 percent. These losses have to be offset somewhere, and that often results in a reduction in staffing. It sometimes means a reduction of services. The end result is a hospital that is not always able to meet the needs of their citizens—their patients.

In many instances it is the hospital that may be among the largest employer in a county or community in our State. In addition to reduced staffing, an inability to buy equipment, and reducing certain specialty programs offered at the hospital, we are also seeing

a significant depletion in their cash reserves and a freeze on capital expenditures. This circumstance is just not sustainable, and so we are seeing hospitals close.

Since about 1990, the number of rural hospitals across the country has remained stable at around 2,000, but last year 15 rural hospitals closed. We have to be concerned there are more to follow. This is an alarming trend. These hospitals play a vital role in health care to those rural communities. It can determine whether a community has a future—whether individuals and families will decide to live there. The loss of a hospital has huge ripple effects and it harms patients. Their primary purpose is to save lives and improve health care, but it is also a tremendous loss to the community itself.

I outlined problems that I believed would occur for hospitals with the passage of ObamaCare long before the law became law. I also would say it doesn't mean I don't believe there aren't significant improvements to be made to our health care delivery system, but I think the reality is that the Affordable Care Act causes more problems—significantly more problems—than those it solves.

Many Kansas hospitals struggle to meet the needs of the aging population in their States and the Affordable Care Act cuts are an exacerbation of their circumstance. Again, the Affordable Care Act had the promise of: If you like your plan, you can keep it. If you like your health insurance plan, you can keep it. If you like your physician, you can keep him or her. That didn't turn out to be true.

In fact, if you liked your policy, you were probably not able to keep it, and that something else now—that replacement policy—often involves increased copayments and deductibles. That certainly is a problem for the policyholder and his or her family. It is a problem for the business and their employees. But we may have forgotten it is a huge problem for the health care provider.

Almost every hospital I have visited, now that the Affordable Care Act is being implemented, will tell me about the increasing amount of unpaid hospital bills—the amount of money that is owed that is attempting to be recovered. The reason that occurs is because the copayments and deductibles are so significantly higher that patients don't have the ability to pay a \$5,000 copayment or even a \$1,000 copayment. So the hospital's bad debt is increasing because patients don't have the necessary amount of money to pay for their portion of what their health care insurance policy now requires of them.

Again, this comes from a law that was described to us as going to increase the affordability and the availability of health care. I guess what I would point out is, in the circumstance we are now in, the policies are so expensive, so much more costly both in premiums and copayments and deductibles, that the affordability is a problem again

and not just for the patient, not for the policyholder but for the hospital that is now left holding the bag because so many of their patients can't pay the copayments or the deductibles.

When the Affordable Care Act passed, the President's own Medicare Chief Actuary noted that the cuts would cause as many as 15 percent of hospitals, skilled nursing facilities, and home health agencies to be unprofitable by 2019. While that point in time may have seemed a long time away, 2019 is now just about 5 years away. If ObamaCare remains in place, the estimated percentage of unprofitable providers is projected to increase, reaching roughly 25 percent in 2030 and 40 percent in 2050. So by 2030 25 percent of the hospitals, health care providers, will be unprofitable, and by 2050 40 percent—nearly half—of the health care providers will be unprofitable.

Again, in particularly rural communities, if you can't make it on the revenues that come from patients, from providing health care to individuals, often the option is to increase taxes—property taxes, sales tax—or something to keep your hospital doors open. That ought not be the consequence of legislation passed by Congress—to require taxes to be raised for a Federal program called Medicare because it is failing to meet the needs of American citizens, our patients. These providers, our hospitals, just simply can't sustain in the circumstance they find themselves in. The Affordable Care Act has put us on a path that I think is dangerous for individuals, for businesses, and now for the health care providers themselves.

In addition to the bad debt experience, many of the new health care plans have limited or restrictive provider networks, so that a local hospital may be eliminated from their network. This means that while under their previous insurance policy they could see a hometown physician or be admitted to their hometown hospital, because of these network restrictions they must go someplace out of town to access health care. This again is a terrible consequence for the individual, for the patient, but also something that drives revenues away from the hometown provider, much to the detriment of everybody who would want to make certain that provider, that doctor, remains in the community and that the hospital doors remain open.

There is lots of evidence that the problems we are facing are real. They demand attention. Access to affordable health care is something that still deserves our attention. I look forward to trying to make certain we have that opportunity. Again, that is nothing that is going to happen in the next few days, but we have a responsibility to see that the things that are reducing the access to affordable health care are addressed. The efforts that resulted from the Affordable Care Act are exacerbating the problem, not solving the problem.

I look at elections as like a new year. There is this optimism that maybe

something good can come from a new Congress; that we can establish our New Year's resolutions and we can begin working, and I certainly make the offer to my colleagues throughout the Senate—all 99 of my colleagues—to be someone who wants to be problem solving, oriented toward finding solutions, and working together to make sure those health care providers that are so important to our lives, our safety, to our health, are around for a long time to come and that the communities that depend upon those hospitals—those 128 hospitals in my home State—have a viable future.

We have to get the regulatory environment under control, we have to resolve the problems created by the Affordable Care Act, and we need to make certain that health care is an opportunity for people who live in places across my State to still have the opportunity to see the hometown physician, to have a prescription filled by the hometown pharmacist, and to make certain those hometown hospital doors remain open for today and for future generations of communities across my State.

I appreciate the opportunity to address the Senate this afternoon, 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. KING. I ask unanimous consent that the order for the quorum call be rescinded.

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

CYBERSECURITY ACT

Mr. KING. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 490, S. 1353.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1353) to provide for an ongoing, voluntary public-private partnership to improve cybersecurity, and to strengthen cybersecurity research and development, workforce development and education, and public awareness and preparedness, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 1353

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Cybersecurity Act of 2013”.

(b) *TABLE OF CONTENTS.*—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. No regulatory authority.

TITLE I—PUBLIC-PRIVATE

COLLABORATION ON CYBERSECURITY

Sec. 101. Public-private collaboration on cybersecurity.