

President Obama's open defiance of clear statutory text and utter disregard for the balance Congress struck is an affront to the separation of powers and to the rule of law. The President and his enablers argue that subsidies for federally enrolled plans are necessary to accomplish ObamaCare's overall purpose of reducing costs and improving health care access. Without subsidies to individuals in the 34 States without State-run exchanges, the President argues that residents of those States will be hit with higher costs and unaffordable health care. The law must be rewritten, he says, to avoid the consequences the law itself imposes.

Laying aside the fact that the Constitution gives Congress, not the President, the power to amend laws, the President's argument is completely circuitous. The reason 34 States could afford not to establish exchanges is because the President said he was going to pay subsidies regardless of whether a State establishes an exchange. Why would a State go to the trouble and expense of creating an exchange if the end result is the same?

The President also grasps at exceedingly thin straws. Because the backstop provision instructs that if a State does not establish an exchange, HHS shall step in and establish such exchange itself, the President says this means Federal exchanges are State exchanges. Right is left and up is down.

But let's return to the real provision in dispute in King, the one that defines eligibility for subsidies. This provision says, again, that an individual is eligible for each month that she is covered by a plan that she "enrolled in through an Exchange established by the State." An exchange established by the Federal Government is by definition not an exchange established by the State, regardless of whether the Federal exchange is a backstop or not.

It gets even worse for the President because the provision additionally specifies that the State exchange must have been established "under section 1311 of the [statute]." That section sets forth the requirements for creating State-run exchanges. Nowhere does it mention Federal exchanges. Rather, the conditions for creation of Federal exchanges appear in a different section—section 1321. Under no plausible reading of the text does a State exchange established under section 1311 mean a Federal exchange established under section 1321.

Advocates of the President's position would have us believe that statutes are infinitely malleable—up can mean down, right can mean left, established by a State can mean not established by a State. What matters to them is advancing some vague notion of statutory purpose that coheres with the President's leftwing agenda, regardless of what the statute actually says.

Those of us on the other side, however, insist that text matters, words matter. What the statute says is what

matters, because at the end of the day the words in our statutes and in our Constitution are what bind our leaders and what prevent them from doing whatever they want.

The administration's actions in King have undermined the rule of law and contravened important constitutional checks on the President's authority. As has increasingly become the case under President Obama, it is now up to the Supreme Court to rein in the President's overreach and to reaffirm the fundamental obligation of all government officials to follow the law. I surely hope the Court will do so.

KEYSTONE XL PIPELINE

Mr. HATCH. Mr. President, I wish to address today's vote to override President Obama's veto of the bipartisan Hoeven-Manchin bill to authorize the Keystone XL Pipeline.

Our economy and North America's energy security would greatly benefit from building this pipeline. It would increase our GDP by approximately \$3.4 billion annually. The State Department, which has provided clear-headed analysis of the benefits of this project, has found that Keystone would support roughly 42,000 jobs during the construction phase alone. It would provide refineries with up to 830,000 barrels a day of North American oil.

Moreover, the Keystone XL Pipeline would be an environmentally sound way to transport this oil. The State Department's extensive environmental impact statement concluded that building the pipeline would actually be better for the environment than not building it.

We have to be clear here. This oil is going to go to market no matter what. Building Keystone would take oil off the tracks and off the roads, transporting it in a way that is safer, more efficient, more environmentally sound, and better for creating good-paying American jobs.

In his veto message, President Obama suggested that an issue such as this is somehow too important to be left to the legislative process and that we should trust in the integrity of the regulatory process.

This is exactly the sort of debate we should be having in the Senate. This is the body that is supposed to debate the important issues of the day. When a project as important as this is stalled without meaningful justification for so long, our involvement is even more important.

In our consideration of this bill, we legislated according to the best traditions of this body, including robust debate, an open amendment process, and regular order. After years of mismanagement, our consideration of this bill showed how the Senate is back at work on behalf of the American people under our new leadership.

While I certainly hope we will find another means of approving the Keystone XL Pipeline, I am naturally dis-

appointed that we came just a few votes short of overriding the President's veto and enacting this bill into law. Furthermore, I can certainly understand why many Americans will view this occasion as yet another example of how Washington is broken.

In many respects, I share this same frustration. Nevertheless, we cannot allow ourselves to slouch toward pessimism and disillusionment about every institution. Indeed, I think my fellow colleagues on both sides of the aisle merit praise for their responsible handling of this bill. Instead, we should shine a light on where exactly the problem is and offer real solutions to make Washington work on behalf of the American people.

At the end of the day, the Keystone XL Pipeline and so many other bureaucratic failures just demonstrate that our regulatory bureaucracy is broken. After all, this project is now in its sixth year of limbo, waiting for a single permit to be issued. This debate has gone on longer than an entire term of a U.S. Senator.

It should not take years and years of navigating the Federal bureaucracy only to have the government decide not to make a decision. This new Congress is focused on helping to create jobs and getting our economy back on the right track, which is why regulatory reform must be a key part of our agenda over the next 2 years. We must strive not only to approve this particularly important project but also to prevent similar abuses from occurring in the future.

Perhaps the two most troublesome features of the modern administrative state are, first, the size of the regulatory burden on the economy and, second, the lack of accountability in the regulatory bureaucracy. Both problems have been illustrated by the Keystone XL project, but they manifest themselves across the board throughout the regulatory process.

The growing Federal regulatory burden has been a concern for decades, but the problem is now worse than ever. Both the number of regulations and their combined cost have exploded in recent years. The American people are now bound by more than 1 million individual restrictions in the Federal Register, with a total cost of around \$1.86 trillion each year. To put that in perspective, that is about 11 percent of our total GDP, it amounts to about \$15,000 per household, and it totals over \$300 billion more than annual individual and corporate taxes combined. In short, our regulatory burden is enormous.

Even as we resist President Obama's mad dash to add new rules, our Nation simply cannot afford to ignore the crushing burden of existing regulations. They weigh down our efforts to boost economic growth and make it impossible to get our country back on track.

Every President, from Jimmy Carter to Barack Obama, has embraced the

notion that outdated, unsuccessful or otherwise ineffective regulations should be repealed. Nevertheless, the cumulative regulatory burden continues to expand year after year.

To address this growing problem, I will be partnering with Congressman JASON SMITH to sponsor the Senate version of the SCRUB Act—Searching for and Cutting Regulations that are Unnecessarily Burdensome. This legislation creates a bipartisan commission to examine the entire administrative corpus in search of regulations that are obsolete, outdated, ineffective, overlapping, duplicative or unjustified. Its goal is to achieve a 15-percent cost reduction in our Nation's total regulatory burden. The Commission can recommend either immediate repeal or incremental reform through a flexible procedure that puts the agencies and stakeholders in the driver's seat.

The SCRUB Act transforms a long-standing bipartisan commitment to retrospective regulatory review from mere rhetoric into meaningful reality. It would result in lower prices, higher wages, and more job opportunities for hard-working Americans. All the while, such commonsense regulatory review poses no risk to our health, our safety or our environment. It is the kind of legislation that can earn support from both sides of the aisle and for which there is a realistic path to having it enacted into law.

A second critical flaw in the current administrative state is a fundamental lack of accountability in how the Federal Government makes and enforces regulations. Far too often the agencies and interest groups manipulate the rules and stack the decks against innovators, entrepreneurs, and ordinary citizens.

Thankfully, there are a number of potential avenues for meaningful reform, but the one area that has thus far escaped much legislative attention is the role the Federal judiciary plays in the regulatory process. Given the broad authorities Congress has ceded to administrative agencies, the courts often stand as the only truth independent check on increasingly out-of-control regulators. But recent abuses by the political branches have created serious challenges for effective and appropriate judicial review on the regulatory process.

By writing vague laws, Congress has created extraordinary flexible grants of authority that are both unwise and constitutionally troublesome. Judicial deference to agency interpretations of the law has magnified this power to an extreme degree. Although originally intended as a means of curtailing judicial activism, Chevron deference and its associated doctrines have resulted in a gross misallocation of lawmaking authority. Such doctrines have consigned courts to be rubberstamps, rather than effective checks on administrative overreach.

The threat of toothless judicial oversight of increasingly problematic regu-

latory action was only heightened when President Obama and his allies packed the D.C. Circuit Court of Appeals with compliant judges even less inclined to engage in meaningful administrative review, and Congress's creation of broadly available private rights of action to challenge administrative decisions and regulatory activities has opened another avenue for abuse of the courts.

While these provisions provide important opportunities for regulated parties to defend their liberties, too often they have allowed groups with no concrete stake in the process to use the courts as a means to drive their own ideological agendas.

Worse yet, inconsistent efforts by the judiciary to define the constitutional limits on standing have inadvertently created a perverse environment where businesses with real skin in the game are often shut out of court, while special interest groups with no meaningful injury in fact are allowed to litigate.

Restoring the constitutionally proper judicial role is vital to returning accountability to the regulatory process. In reviewing agency actions, courts should hear only real cases and controversies, where litigants have concrete interests at stake. But when they do, they should state firmly what the law is and not simply ratify what the regulatory agencies argue that the law should be.

Legislation to ensure meaningful reform on each front and thereby bringing the administrative state more in line with the Constitution will be one of my top priorities in this Congress.

It is disappointing that we could not override the President's veto of this important legislation. The failure to authorize Keystone demonstrates how broken our regulatory process is. I hope we can use this occasion of bipartisan consensus to move forward in ways that can fix our out-of-control bureaucracy and get Washington back to work for the American people.

With that, Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

(The remarks of Mrs. MURRAY pertaining to the introduction of S. 660 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

THE ARCTIC

Ms. MURKOWSKI. Mr. President, it is quiet around here today, this afternoon. We have been notified that we are not going to be having any further votes this week because Washington, DC, is anticipating a winter storm. It is March 4. I think most people here in Washington had hoped that winter had already come and gone, but that is not the case.

In my home State of Alaska, this is the time of year that we welcome winter. We embrace winter. In fact, I am going to be going up to the State this Friday to attend the kickoff of our biggest sporting event, which is the Iditarod sled dog race, 1,100 miles, where about 70 teams of dogs and intrepid mushers make the trek typically between the Anchorage area and 1,100 miles up to Nome.

This winter has been a little bit different. It is warmer back home than most of us Alaskans would like, and we have actually had to reroute the Iditarod for the second time in the race's history. It is going to be starting out of my hometown in Fairbanks, and rerouting the race so that it is still a thousand-mile race. But it does speak to the fact that we are seeing some changes up there, at least for this winter, in terms of our temperatures and our climate.

We have a lot of folks around here anticipating what we are going to see tomorrow who are wondering what is going on with climate? What are we seeing? Is this temporary in nature, or are we going to start seeing more arctic conditions here on the eastern seaboard?

I want to talk about the Arctic today. I want to talk about the value of an amazing part of the globe and the opportunities we have in the Arctic, the opportunities we have as an Arctic nation.

We have a map here. This is the bathymetric chart of the Arctic Ocean. It is a view that perhaps most Americans are not intimately familiar with. You look at it and say, where on planet Earth is this?

To locate everybody a little bit, here you have Russia, Greenland, Canada over here, and the United States. This is the State of Alaska with all of the interior arctic areas there, but an amazing mass located at the top of the globe, an area where, quite honestly, most Americans put it out of sight, out of mind. The only time they really think about the Arctic is when there are temperatures that make it feel like the Arctic.

There are probably going to be a lot of folks here in Washington, DC, tomorrow who are thinking, yes, maybe we do live in an Arctic nation because I am feeling it here. It doesn't make any difference whether we have a storm coming at us or whether it is the